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ABSTRACT

Contents of this issue of "Inequality in Education" include: (1) "Busing is not the issue," Reubin Askew, Governor of Florida; (2) "Pupil transportation: a brief history," Paul V. Smith; (3) "White parents' fears," Patricia Derian, which discusses the desegregation of the schools in Jackson, Mississippi in the late 1960's from the point of view of a white doctor's wife and the mother of three children; (4) "Black parents' hopes," Roger Wilkins, in which the former Director of the Justice Department Community Relations Service and the black father of two children discusses his own educational experience and his decision to have his children bused to an integrated school; (5) "Does busing harm children?" Robert Coles; (6) "Race and learning: a perspective on the research," Patricia Lines, portions of which are adapted from work done for the Report on the Massachusetts Racial Imbalance Act under a contract between the Harvard Center for Law and Education and the Massachusetts Department of Education; (7) "Integration: a no win policy for blacks?" Derrick Bell, Jr.; (8) "Metropolitan-wide desegregation," William Taylor; and, (9) "Pending Northern desegregation cases," Robert Pressman. (JM)

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Number Eleven

Center for Law and Education
Harvard University

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Perspectives On BUSING

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Busing Is Not The Issue

by Reubin O'D. Askew*

Ralph Waldo Emerson once said that "This time, like all times, is a very good one, if we but know what to do with it." I am not sure what must be done to bring out the good in today's times. But I am convinced that sitting and waiting for the inevitable is not the answer.

For this reason, I want to say a few things with which many will disagree, things which are decidedly unpopular, but things which I feel must be said in the interest of the American people—all of them. In doing so I am not attempting in any way to judge nor place labels on anyone who disagrees.

Two questions with nationwide repercussions for school desegregation were added to our Florida Presidential primary ballot for March 14th. They were

> 1. Do you favor an amendment to the United States Constitution that would prohibit forced busing and guarantee the right of each student to attend the appropriate public school nearest his home?
>
> 2. Do you favor providing an equal opportunity for quality education for all children, regardless of race, creed, color or place of residence, and do you oppose a return to a dual system of public schools?

Many people feel strongly about these subjects, and rightly so. Many Floridians (and many throughout the nation who wish for a similar way to express their sentiments) feel that a constitutional amendment prohibiting busing is a wise and necessary measure. But I feel that it is wiser for people to vote "No" on the anti-busing amendment, and "Yes" on equal educational opportunity.

Reuben Askew is the Governor of Florida.

I strongly oppose a constitutional amendment to outlaw busing—but not because I like it or think it is a panacea for our problems. On the contrary, I recognize and regret the inconvenience, disruption and hardship it often creates for many parents and children. I am not without feeling for them, and I do not think anyone is. Busing is an artificial and inadequate instrument of change. It should be abandoned as soon as we can afford to do so.

Value of Busing

Yet, by the use of busing (and other methods), we have made real progress in dismantling a dual system of racially segregated public schools in this country. And I believe that until we find alternative ways of providing an equal opportunity for quality education for all, regardless of race, creed, color or *place of residence* (and that last part is important); until we are sure that ending busing will not bring a return to segregated public schools; until we have those assurances, we must not unduly limit ourselves—and certainly not constitutionally.

We must not risk seriously undermining the spirit of the Constitution, one of the noblest documents produced by man. We must not risk returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place. Instead, we must all work together to find ways other than busing to guarantee that no American is denied an equal opportunity to grow and develop in a nonsegregated society.

That is what the present clamor is all about. Nobody is really committed to busing as an end in itself. It is the purpose for which we bus that is all-important. That goal is to put the divisive and self-defeating issue of race behind us once and for all. It is a goal worthy of vigorous pursuit by anyone who believes that all people should live together in peace, justice and harmony.

I believe we are closer to this goal now than ever before. I believe we are closer than any

civilization in history to achieving a society in which all races, creeds and religions can not only live with their differences, but thrive upon them, and learn from them as well. I think we are well within reach of understanding one another, caring for one another, and affirming our commitment to the principles of justice and compassion which made this country what it is today. How sad it would be to turn back now, not only for minority children but for all of us.

Of course we do not want our children to suffer unnecessary hardships. That goes without saying. But neither do we want them to grow up in a world of continuing racial discord, racial hatred and, above all, racial violence. But I fear that this is what we will have if we do not work now to solve our racial problems. This is surely what we will have if we continue to thwart every attempt to bring us together.

Ignorance is the father of cruelty. But we are beginning at last to overcome the ignorance which has kept us divided for so long, the ignorance which has been responsible for so much cruelty between the races. This is true especially of the South.

The Busing Smokescreen

Because of our persistent preoccupation with race related issues, we have all too frequently neglected the real economic and environmental problems of the people, black and white alike. In this way, we have not been fair to ourselves. When people are divided against themselves on racial grounds, they have no time to demand a fair shake on taxes, utility bills, consumer protection, government services, environmental preservation, and other problems. In this session of the Florida legislature, for example, proposals for reform of education, environmental controls, and utility regulation have taken a back seat to a straw vote on busing which, in the final analysis, does not really accomplish anything. Believe me, while the legislature and news media were focusing attention on the busing debate, lobbyists and special interests were hard at work undermining programs that would put money into people's pockets, that would help protect people and the other living things which make Florida a worthwhile place in which to live.

This is probably the greatest reason why the South has been lagging behind other regions on issues such as wages, distribution of the tax burden, health, medical care, and aid to the elderly and others in need. So often when someone attempts to do something about people's basic needs, the race issue is resurrected in one form or another. Interestingly enough, I asked the legislature to put those other kinds of issues on the ballot along with busing. And they refused.

Political Maturity

I hope that we are moving beyond racial appeals here in Florida, throughout the South, and the rest of the nation as well. It is time to say that we are not caught up in the mania of stopping busing at any cost, that we are maturing politically, that we know the real issues when we see them, that we will no longer be fooled, frightened and divided against ourselves. This is how we gain a better understanding of what this country is all about.

For many years now, the rest of the nation has been saying to the South that it is morally wrong to deprive any citizen of an equal opportunity in life because of his color. I think most of us have come to agree with that. But now the time has come for the rest of the nation to live up to its own stated principles. Only now are the other regions themselves beginning to feel the effects of the movement to eliminate segregation.

I say that the rest of this nation should not abandon its principles when the going gets tough. I do not say this to be vindictive, I say it to be fair. The rest of the nation has sought to bring justice to the South by mandate and court order. Now perhaps it is time for the South to teach the same thing to other regions in a more effective way—by example. I certainly hope we will.

Regardless of how people feel about busing or segregation, a constitutional amendment to change things is neither necessary nor desirable. It is dangerous to tamper with the United States Constitution under emotional circumstances, and I have been heartened by the reports that President Nixon and Vice President Agnew have reservations about amending it in this way, that the Senate leaders in both parties are against a constitutional amendment. As one key member of the Nixon administration put it, these proposals "could have the effect of actually undercutting and rolling back the measures that have been taken to dismantle the dual school system."

I hope we can say to those who would keep us angry, confused and divided, that we are more

concerned about justice than about transportation, and that while we are determined to solve both, we are going to take justice first.

It never has been my feeling that the majority of the people who oppose busing are racially motivated. On the contrary, I believe that most people who are disturbed by the inconvenience, disruption and hardship of busing, are nevertheless just as concerned that we put an end to segregation, and assure equal opportunity for all. Busing is one way of doing that. Perhaps it is the least desirable way, but it is effective nonetheless.

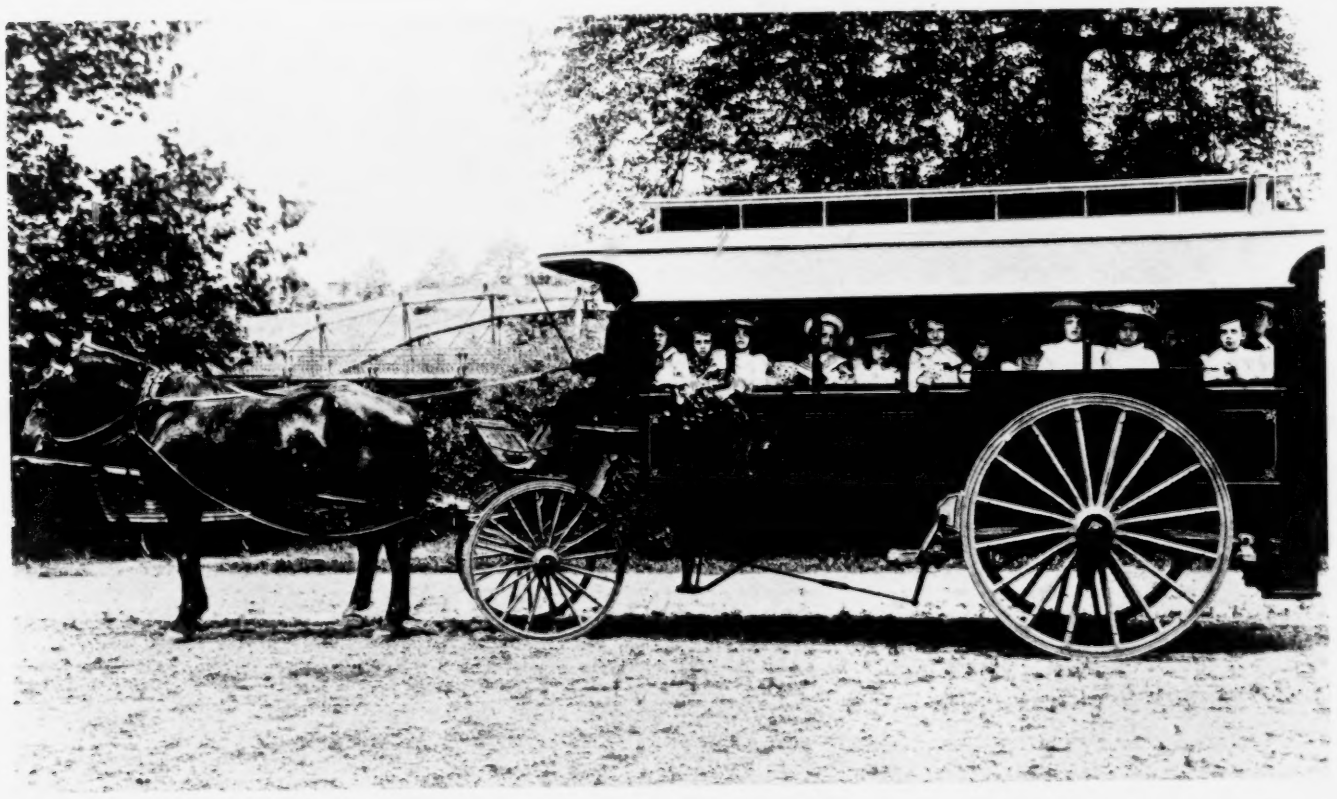
Other Desegregation Paths

Now is the time for Americans of good faith to search for other effective ways. One way, as I have said before, would be to work at the community level to overcome economic barriers and change our housing patterns—so that every neighborhood school would be a *desegregated* school (not necessarily one with an exact racial balance, but one in which the proper emphasis is on our real goal of quality education for all).

It is regrettable that education has had to shoulder a disproportionate share of the burdens of overcoming the effects of segregation. We can and should put greater emphasis on employment opportunities and fair housing practices as well as education. But we can also put greater emphasis on pre-school education for all children so that they start on an equal footing as early as possible. We can assure that no schools are so lacking in facilities, discipline and properly trained personnel that parents are legitimately fearful for their child's safety, health, development and well-being. For if such schools harm one child, they harm all children and should not be tolerated. School buildings can also be placed to ease the necessity of busing. There is much more we can do, I am sure, and I hope we will.

Then we can put an end to busing without setting the stage for a racial discord such as we have never before imagined. Then we can get on to those other problems which we've neglected for far too long.

In closing, let me say that we should be working together to free ourselves of the fears and divisions of yesterday, and to seek a better tomorrow. If I seem presumptuous in taking this opportunity to say so, I apologize. It is not my intention to impose my will on anyone. But it is my intention to give people cause for sober reflection, so that they are very sure of what they are doing before they encourage an amendment to the United States Constitution, one that would reverse our efforts to make that great document a living testimony to the pursuit of freedom, equality, and justice for all.



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Pupil Transportation: A Brief History

by Paul V. Smith

Throughout America, the evolution of the public school system has shared three characteristics: (1) smaller districts (with one-room schools) have been consolidated into more comprehensive regional schools (often grouping students from different civic jurisdictions); (2) state aid has supplemented the school finances raised by the local property tax; and (3) students have been transported from their home neighborhoods to the more comprehensive, state-supported schools.

This third device, transportation, has attracted the greatest acrimony. One list of objections includes:

> 1. Bad roads and irregular distribution of public highways.
> 2. Uncertainty about expense.
> 3. Loss of the *home* school.
> 4. Fear that land on the border of enlarged district will depreciate in value.
> 5. Central school might build a new, large building and the discontinued schools might wish to return to the old regime.
> 6. Many teachers would be thrown out of employment.
> 7. Would build up a central school in a rival district. (Jealousy).
> 8. Disbelief that pupils can be transported comfortably and safely.
> 9. Doubt whether a graded school is better than an ungraded school.
> 10. Children would have to leave home too early and could not get back in time to do chores.
> 11. The evil influences would be much greater, particularly if children are transported to village or town schools.[1]

Paul Smith, a doctoral student in the sociology of education, is a research associate of the Center for Law and Education.

These arguments were listed by L.D. Harvey, Wisconsin Superintendent of Public Instruction, at a time when the controversy was nearing one of its peaks — 1902. When the problem surfaced again, in 1937, the Arkansas Department of Education compiled a new list:

> 1. Consolidation destroys community life.
> 2. The consolidation of districts takes away local control of the schools.
> 3. The opposition of teachers and principals who may lose their positions.
> 4. The selfish interests of certain individuals.
> 5. Objections to transportation.
> 6. The school will be too far away.
> 7. Religious and denominational interests.
> 8. Social distinction between rural and urban pupils.
> 9. Failure to see the advantages of large schools.[2]

Similar arguments are occasionally heard today.[3]

Past controversies, of course, were resolved in favor of consolidation, state aid, and pupil transportation — much to the general satisfaction of the populace thereafter. (Indeed, this was the course recommended by both state departments of education, although the resolution was probably easier in Arkansas since the school bus had been invented by 1937). There may be a point, nonetheless, to a brief review of school district consolidation and pupil transportation in America. As Professor M.C.S. Noble, Jr. observed in 1939:

> When evaluating such objections, it is well to remember that the school is an agency of society; hence any objections raised by the people must be met in a proper spirit and should receive careful and respectful consideration.[4]

In Earliest Times

Schools have been agencies of society in the United States since before the nation existed. The Boston Latin School, founded in 1635, began receiving public funds in 1647 when Massachusetts passed the first law authorizing public secondary schools. The first pupil transported at public expense to an American school is unknown, but was almost certainly an Indian attending Harvard College, back when that venerable thicket of learning was an Indian school. (In those days, ministers were paid from the public purse to transport promising Indian children to the school. Throughout the colonial era, town subscriptions for the transportation and tuition of candidates for the ministry were common.)

The first documented suggestion that pupils attended formal, state-supported schools distant from their homes appears in *New England's First Fruits*, published in 1643. Speaking of the founding of Harvard College (as a college, after the Indian school had been abandoned), the first public money for education is mentioned:

> And as we were thinking and consulting how to effect this great work ["to advance learning"], it pleased God to stir up the heart of one Mr. Harvard (a godly gentleman and a lover of learning, there living amongst us) to give the one half of his estate (it being in all about £1700] towards the erecting of a college, and all his library. After him, another gave £300, others after them cast in more, and *the public hand of the state* added the rest.
>
> * * *
>
> And by the side of the College, a fair grammar school, for the training of young scholars and fitting of them for academical learning . . .

Harvard's earliest Rules and Precepts (No. 6) provided: ". . . Nor shall any, without his tutor's leave or (in his absence) the call of parents or guardians, go abroad to other towns."[5] It is logical to surmise that many candidates in both the college and grammar school came from these "other towns."

Through the eighteenth and early nineteenth centuries, American public education gradually came into being. New England public school districts were based upon township lines, and were financed largely by local taxes (sometimes wealth rather than real property taxes). In the South, school districts were based on county and parish lines and supported by state or county-wide taxes (often commodity or sumptuary taxes). Because the nation was thinly settled and the population largely rural, "neighborhood schools" were impractical. Children journeyed to school by any means available:

> From pioneer days until shortly after the close of the war between the States, transportation facilities were decidedly limited. The child who lived more than a walking distance from school, journeyed to and from school by whatever means his family or his neighbors could provide. In the main, transportation meant a long and tedious ride in a rough wagon which had been provided by some family in the neighborhood. However, in many instances the child mounted his horse and rode to school; in other instances, a canoe or rowboat served as a means of travel.[6]

The longest and most arduous school journeys during this period were those of our Southern Black persons who ventured, by Underground Railway,[7] to schools as far away as New England and Canada. Individuals made these efforts, however, but once or twice (and rarely more than a half a dozen times a lifetime) in order to secure the advantages of public education for themselves and their descendants.

International Picture

Transporting pupils to schools in sparsely settled areas was hardly unique to America. In 1883:

> Nearly every Australian school [had] a stable attached in which boys who rode to school put up their horses during school hours. It is most amusing to watch half a dozen "fellows" galloping their ponies up the avenue, not to be late for first school, just as we used to scurry across quad to chapel of a morning![8]

Cable basket across the Salmon River, enabled pupils to avoid a 14 mile walk to Rural School District 23, Lemhi County, Idaho.

Nor were the occasional use of such strange vehicles as canoes and rowboats solely American. Indeed, England provides an example of the employment, by fervent pupils, of tubs and stilts:

> In a meadow upon the skirts of the town, adjoining the road leading to Exeter, stood the grammar-school, from which the famous Bampfield Moore Carew, king of the gypsy tribe, eloped, when a schoolboy, to join his gang of vagabonds. Here, in the good old days, "when George the Third was king," my father being a freeman of the town, I enjoyed the advantage of *hic-haec-hoc*-ing it for a couple of years.
>
> [The students were fond of school.]
>
> As a proof of this I may mention that upon one occasion, when the school was inaccessible, the meadow that divided it from the road being flooded by the heavy rains, many of the boys got across the water in tubs or on stilts . . .[9]

Modern Times in America

The modern period in the United States, beginning about 1840, is dense with change and improvement in the means of school finance, consolidation, and transportation. Table I below offers Professor Noble's admirable summary of this period.

Table I

Period	Major Historical Developments
1840-1880	The principle of centralization of schools established in urban communities, extended to other independent districts, and inaugurated in rural sections. Two states enacted transportation statutes.
1880-1894	Gradual extension of the consolidation and transportation ideas.
1894-1910	A period of marked increase of interest in rural schools; a general rapid enactment and betterment of consolidation and transportation laws.
1910-1925	A period of more united effort in bringing about consolidation, determining its value, and working out the best ways to make it effective. Scientific studies initiated to develop improved methods of distributing state aid for transportation and consolidation, and determine factors affecting transportation costs. Transportation by bus succeeded transportation by horse-drawn vehicles as the predominating mode of pupil transportation.

[Adopted from M.C.S. Noble, Jr., *Pupil Transportation in the United States* (1940), p.33]

School Finance

The methods by which schools are financed is intimately related to the question of pupil transportation. Until Civil War times, tuition, philanthropy, state aid, and various local funds supported public education. Then, as settlements grew into towns and modest cities, local governments developed the real property tax as the chief instrument of school finance. This trend was not unopposed:

> The idea of permitting the stronger, wealthier sections to make more rapid progress with their schools did not meet favor in some cases. In Indiana and Pennsylvania definite attempts were made to keep all the schools at

> about the same level and to give none any great degree of independence. A Supreme Court decision in Indiana prohibited local school taxes from 1854 to 1867 on the ground that if such taxes were levied the schools would not be general and uniform.[10]

The local property tax prevailed, nonetheless, in New England and in inland areas settled upon the New England model. In the South, local taxes never found root because of the county government system, so property taxes were county-wide and their income was distributed to schools on a per-pupil basis.

Objectors to the local property tax system of school finance were not completely silenced, however. In 1918 the United States Bureau of Education spoke out: "the chief reason for discontent with the local district is that it has become an almost insurmountable obstacle to the type of school organization required by a modern rural population. As a tax area it causes untold injustice and inequity."[11] In 1925, opposing voices were sharper:

> The evils of the district system and the hopelessness of endeavoring to equalize educational opportunity and school burdens, as long as the district is maintained as the chief and dominant source of school revenue, have been pointed out by every leading authority on the organization and support of public schools for the last one hundred years.[12]

Property tax critics soon turned from direct attacks upon the system to proposals that would circumvent its injustice. They suggested school consolidations and broadened pupil transportation plans which equalized fiscal support and conferred other advantages. The Arkansas Department of Education praised the county-wide school district in 1930:

> This district is controlled by one Board of Education elected by the people exercising powers similar to those exercised by school boards under the local district system. Under the county unit system *all* the resources of the county are pooled for the education of *all* the children of the county.[13]

In New York State, statutory provision for district centralization was celebrated in 1937:

> But one further important step was needed to perfect our school system, a step to assure equality of opportunity for all children in the rural districts and smaller villages, on a parity with children in centers of population. Hence the centralization act was added to the Education Law to round out and complete the obligations imposed by the fundamental law of the State. In conformity therefore with the mandate of the Constitution, centralization is the capstone of the State Educational System.[14]

Professor Noble's 1939 analysis extended the consolidation idea to include areas larger than single counties, and cited the U.S. Bureau of Education for support:

> Furthermore, it is desirable to conduct such reorganization programs on either a county-wide or state-wide basis.
>
> * * *
>
> Facilities which provide safe and economical transportation are most readily established as the result of reorganization studies of local school units, when such studies are conducted on a county-wide and (or) a state-wide basis.[15]

This suggests that many citizens may have accepted local taxes for school finance because the taxes were expected, in conjunction with school consolidation and pupil transportation, to make equal education available to all:

> He [the rural citizen] has faith in the ideals of American democracy, believing it possible that some day his own son might occupy the White House. Holding that faith, he wants an educational offering for his child equivalent to any in the land. Any at-

tempt to institute a caste system of education in which his children cannot become bankers, lawyers, doctors, or enter any profession, occupation, or vocation arouses his most bitter opposition. He is realizing that if his children are educated in a community with a one-room rural school, taught by an incompetent teacher, with no high school facilities, that they will be unable to compete with their urban colleagues. So at a time when the favorable margin between the farmers' buying and selling dollar is growing narrower and narrower, they are still voting consolidations by overwhelming majorities, they are transporting at their own expense and paying tuition of thousands, . . . and they are demanding accredited high schools, which will give varied curricula and which will prepare them for entrance into the best colleges and universities in the nation.[16]

Such is the faith upon which our modern school — nay, our very nation — is founded.

School Consolidation

School consolidation began as an urban phenomenon, where the limitations of neighborhood schools (often a single room with a single teacher) were clearly seen:

> The movement to provide better educational advantages than are offered by the one-room school in which a small number of children are taught by some one untrained for the work began in New England. Out of it have come our present-day city school systems, independent and special districts of various kinds, district, union, township, and county high schools, union graded schools, rural and state graded schools, consolidated and centralized schools, and other public schools . . . .
>
> Consolidation of schools was first effected in the cities and more densely populated towns, usually under special laws or acts of incorporation.[17]

While state statutes were important, consolidated (or union) districts often preceded the formation of larger cities. New York City is the most prominent example. (In fact, school district boundaries often coincide with municipal boundaries only because the municipal boundaries were first drawn along school district lines.)

> The town or township as the unit of local school administration was compulsory throughout New England and New Jersey except for special districts, and these were gradually uniting again with the towns from which they had withdrawn. Under optional township plans township districts were forming steadily in Michigan but slowly or not at all in Wisconsin.[18]

Table II shows the dates of the earliest state statutes which allowed, encouraged, or financed school consolidations. Massachusetts had the first statute in 1838, but Connecticut made the first actual consolidation, in Farmington, in 1839.

The first Massachusetts consolidation occurred in Greenfield in 1869, but the Montague and Concord consolidations of 1875 and 1879 respectively were more interesting. In 1893, Seymour Rockwell wrote of the Montague consolidation:

> For 18 years we have had the best attendance from the transported children; no more sickness among them, and no accidents. The children like the plan exceedingly. . . . We encountered all the opposition found anywhere, but we asserted our sensible and legal rights and accomplished the work.[19]

W.L. Eaton, the Superintendent of Schools at Concord, added:

> The apprehensions of the owners of real estate that a depreciation of values would result if the local schools were closed have proven to be groundless. The natural reluctance of parents to send their young children so far from home and for all day, to attend the center school, has vanished. The chil-

dren are conveyed in comfortable vehicles fitted up for their accommodation. They are in charge of trusty drivers en route, and at noon they are under the special care of one of the teachers, who has extra compensation for the service. . . . The attendance of the children conveyed is several per cent better than that of the village children, and it is far higher than it was in the old district schools. This is not strange when one reflects that the children are taken at or near their own doors and conveyed to schools with-

Table II

States.	Date of first consolidation law or school.	Consolidated schools.	Per cent of total number of schools.	Districts (D) or schools (S) discontinued by consolidation.	Pupils enrolled in consolidated schools.	Per cent of State enrollment.	Teachers employed in consolidated schools.	Per cent of State teaching corps.	Value of consolidated school property.	Per cent of State school property.
1	2	3	4	5	6	7	8	9	10	11
Continental United States	.....	11,890	.....	.....	389,783	[1] 9.3	[1] 11,106	[1] 7.3	.....	.....
Alabama	1910	328	4.0	.....	37,000	6.5	.....	.....	.....	.....
Arizona	1907	29	1.8	.....	.....	.....	[2] 600	5.7	[2] 1,151,200	7.4
Arkansas	1911	170	2.5	.....	.....	.....	.....	.....	.....	.....
California	1901	59	.8	.....	.....	.....	.....	.....	.....	.....
Colorado	1909	[3] 146	4.2	[3] S 425	[3] 29,000	13.1	[3] 1,078	15.4	[3] 6,003,671	24.9
Connecticut	1839	.....	.....	.....	.....	.....	.....	.....	.....	.....
Delaware	1861	14	2.9	S 26	6,387	19.1	263	21.2	1,050,000	.....
Florida	[4] 1889	.....	.....	.....	.....	.....	.....	.....	.....	.....
Georgia	1911	315	3.7	.....	[5] 18,122	2.6	631	3.9	.....	.....
Idaho	1900	41	2.2	.....	.....	.....	.....	.....	.....	.....
Illinois	1905	78	.5	.....	.....	.....	.....	.....	.....	.....
Indiana	1873	1,040	14.4	.....	.....	.....	.....	.....	.....	.....
Iowa	1873	288	2.2	.....	[3] 68,619	13.3	.....	.....	.....	.....
Kansas	1896	118	1.2	[6] D 270	[3] 11,839	[3] 2.9	[3] 590	[3] 3.5	.....	.....
Kentucky	1908	258	3.1	.....	.....	.....	.....	.....	.....	.....
Louisiana	1902	[7] 808	22.0	.....	[7] 107,731	30.4	3,538	38.1	.....	.....
Maine	1854	117	2.4	.....	.....	.....	.....	.....	.....	.....
Maryland	1904	[8] 180	7.4	.....	.....	.....	.....	.....	.....	.....
Massachusetts	1838	[9] 126 [10] 2,169	62.3	.....	.....	.....	.....	.....	.....	.....
Michigan	1843	211	2.3	.....	.....	.....	.....	.....	.....	.....
Minnesota	1901	255	2.7	.....	.....	.....	.....	.....	.....	.....
Mississippi	1910	470	6.5	.....	61,821	10.9	2,049	17.0	.....	.....
Missouri	1901	168	1.6	.....	28,368	4.2	905	4.2	.....	.....
Montana	1913	69	1.8	.....	12,127	9.5	491	7.9	.....	.....
Nebraska	1889	101	1.3	.....	.....	.....	.....	.....	.....	.....
Nevada	1913	15	4.4	.....	.....	.....	.....	.....	.....	.....
New Hampshire	[11] 1870	.....	.....	.....	.....	.....	.....	.....	.....	.....
New Jersey	1886	92	3.7	.....	.....	.....	.....	.....	.....	.....
New Mexico	1907	129	9.0	.....	.....	.....	.....	.....	.....	.....
New York	1853	354	2.7	[6] D 830	.....	.....	.....	.....	.....	.....
North Carolina	1885	.....	.....	D 157	.....	.....	.....	.....	.....	.....
North Dakota	1899	457	8.9	.....	.....	.....	.....	.....	.....	.....
Ohio	1846	800	5.3	.....	.....	.....	.....	.....	.....	.....
Oklahoma	1903	262	3.3	.....	.....	.....	.....	.....	.....	.....
Oregon	1903	61	2.4	.....	.....	.....	.....	.....	.....	.....
Pennsylvania	1901	137	.8	S 503	.....	.....	682	1.5	.....	.....
Rhode Island	1898	.....	.....	.....	.....	.....	.....	.....	.....	.....
South Carolina	1898	[3] 300	6.2	D 288 S 323	.....	.....	.....	.....	.....	.....
South Dakota	1913	139	2.3	.....	8,778	5.9	288	3.6	1,685,896	9.6
Tennessee	1903	309	4.2	.....	.....	.....	.....	.....	.....	.....
Texas	1893	635	5.7	.....	.....	.....	.....	.....	.....	.....
Utah	1896	.....	.....	.....	.....	.....	.....	.....	.....	.....
Vermont	[11] 1872	.....	.....	.....	.....	.....	.....	.....	.....	.....
Virginia	1903	[3] 258	3.8	.....	.....	.....	.....	.....	.....	.....
Washington	1890	274	7.7	.....	.....	.....	.....	.....	.....	.....
West Virginia	1908	145	2.1	.....	.....	.....	.....	.....	2,450,000	5.8
Wisconsin	1856	80	.9	.....	.....	.....	.....	.....	.....	.....
Wyoming	1913	11	.7	.....	.....	.....	.....	.....	.....	.....

[1] Based on returns from 11 States.
[2] Estimated..
[3] Data for 1921.
[4] Giving county boards power to locate schools.
[5] In State-aided schools only.
[6] Number of districts affected.
[7] Data for 1922.
[8] Data for 1918.
[9] Towns of less than 10,000 population having most of the schools consolidated.
[10] Buildings of two or more rooms.
[11] Permissive adoption of town system. Note p. 11.

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out exposure in stormy weather and with entire comfort in cold or snowy weather. Discipline in the carriages is maintained readily, as the driver has authority to put out any unruly child.[20]

It is clear that transportation has played an essential and beneficial part in school consolidations.

School Transportation

The success of school consolidation; students' increased comfort, safety, and scholarly diligence; protection against the inequity of property tax

Table III

States.	Date of first transportation law.	Date of first available data on amount spent for transportation.	First reported amount spent for transportation.	Amount spent for transportation in 1920.	Per cent of total current expense of the schools.	Number of children transported, 1920.	Per cent of the average daily attendance of the State.	Per cent of total enrollment in consolidated schools.	Cost of transportation per pupil per year.
1	2	3	4	5	6	7	8	9	10
Continental United States	.....	.....	.....	$14,514,544	[1] 1.8	356,401	[2] 5.6	.....	.....
Alabama	[3] 1915	[4] 1918	$9,770	171,925	2.2	7,058	1.9	19	[5] $3.33
Arizona	1912	.....	.....	.....	.....	.....	.....	.....	.....
Arkansas	1911	.....	.....	.....	.....	1,032	.3	.....	.....
California	1901	1918	272,782	630,797	1.6	.....	.....	.....	.....
Colorado	1909	.....	.....	.....	.....	[6] 11,400	7.5	39.3	.....
Connecticut	1893	1898	11,416	314,340	2.2	6,050	2.9	.....	.....
Delaware	1919	1920	68,401	71,444	4.6	.....	.....	.....	.....
Florida	[8] 1889	1901	3,225	216,691	3.6	7,966	4.8	.....	27.20
Georgia	1911	1911	19,339	69,477	.8	9,499	2.03	52.4	12.40
Idaho	1913	1914	35,000	301,345	4.5	1,526	1.8	.....	.....
Illinois	1911	1912	16,987	163,254	.2	.....	.....	.....	.....
Indiana	[9] 1899	1904	[10] 590	1,921,035	6.6	60,142	13.1	.....	.....
Iowa	1897	1907	25,758	1,354,051	4.1	[7] 34,743	8.5	50.6	.....
Kansas	1899	.....	.....	.....	.....	[6] 4,000	1.3	33.7	[10] .16-0.23
Kentucky	1912	1914	15,222	95,785	1.3	.....	.....	.....	[10] .10- .19
Louisiana	[11] 1916	1909	45,808	471,059	5.1	18,229	7.1	16.9	26.00
Maine	1880	1896	47,739	296,651	4.9	8,589	7.6	.....	33.37
Maryland	1904	1905	[12] 508	64,734	.8	.....	.....	.....	.....
Massachusetts	1869	1889	22,118	858,840	2.1	[13] 25,935	5.0	.....	[10] .20- .24
Michigan	1903	1914	49,497	155,116	.4	.....	.....	.....	.....
Minnesota	1901	1904	4,258	976,475	3.4	[7] 20,450	5.1	.....	.....
Mississippi	1910	1911	[5] 345	246,078	5.5	30,772	11.8	49.7	[5] 3.18
Missouri	1907	.....	.....	.....	.....	.....	.....	.....	.....
Montana	1903	1914	26,636	297,796	2.9	3,293	3.5	27.1	[10] .33
Nebraska	1897	1920	.....	[5] 127,500	.7	[7] 3,517	1.5	.....	.....
Nevada	1915	1920	.....	34,115	2.8	.....	.....	.....	.....
New Hampshire	1885	1906	38,527	195,127	5.3	.....	.....	.....	.....
New Jersey	1895	1901	4,421	749,895	2.1	21,727	4.5	.....	.....
New Mexico	[14] 1917	1918	20,855	136,881	3.8	5,119	8.6	.....	.....
New York	1896	1913	65,445	470,485	.4	.....	.....	.....	.....
North Carolina	1911	.....	.....	.....	.....	7,936	1.6	.....	.....
North Dakota	1899	1906	28,896	876,876	7.0	21,153	16.4	.....	.....
Ohio	1894	1915	473,470	1,651,157	2.9	.....	.....	.....	.....
Oklahoma	1905	1920	.....	[15] 228,397	1.2	8,420	2.3	.....	.....
Oregon	1903	1920	.....	2,286	.02	[7] 2,029	1.4	.....	[10] .35
Pennsylvania	1897	1913	425	83,962	.1	[7] 4,520	.35	.....	.....
Rhode Island	1918	1918	21,633	32,490	.7	.....	.....	.....	.....
South Carolina	[16] 1912	1914	11,927	[17] 25,121	.4	[17] 1,723	.51	.....	[17] 13.29
South Dakota	1899	1913	54,399	211,947	2.3	2,388	2.4	27	.....
Tennessee	1913	1915	18,920	88,883	1.4	5,870	1.2	.....	[5] 1.00-9.00
Texas	[18] 1915	1917	29,631	70,088	.2	2,683	.3	.....	.....
Utah	[19] 1905	1916	93,091	170,286	2.7	5,000	5.1	.....	.....
Vermont	1876	1893	9,133	228,532	6.5	4,467	8.8	.....	.....
Virginia	1903	1906	2,102	153,796	1.5	[7] 8,885	2.5	.....	.....
Washington	1901	[20] 1911	[20] 44,523	.....	.....	.....	.....	.....	.....
West Virginia	1908	.....	.....	.....	.....	.....	.....	.....	.....
Wisconsin	1897	1912	36,468	225,699	.9	.....	.....	.....	.....
Wyoming	[21] 1919	1918	29,255	74,128	2.3	.....	.....	.....	.....

[1] Computed on returns of 40 States.
[2] Computed on returns from 31 States.
[3] Permitted in Mobile County at an earlier date.
[4] Mobile County only.
[5] Per month.
[6] Estimated.
[7] Data for 1921.
[8] Assumed in powers of county boards.
[9] Transportation was carried on under general powers of township boards as early as 1888.
[10] Per day.
[11] Transportation also dates to 1902 under general powers of parish boards.
[12] Baltimore County.
[13] Data for 1919.
[14] Not a specific authorization. County boards created.
[15] Special report for 98 schools.
[16] Permitting State aid for transportation.
[17] Data for 1918.
[18] A law of 1905 was also construed as permitting transportation.
[19] In powers of county district board.
[20] Special report.
[21] Not specific; assumed in powers of district board.

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inequities in school finances: all depend upon adequate school transportation. While it has been available in the United States from earliest times, its provision by the state is a latter-day improvement.

The first state act providing for state-aided pupil transportation was passed by the Great and General Court of Massachusetts in 1869. As Table III indicates, other New England states rapidly followed suit, followed shortly by states throughout the midwest.

Interestingly, two states required no specific authorization for the reimbursement of transportation. In Florida and Utah, the act that entailed public transportation was the same act that set forth the powers of the county school boards. In Florida, the statute allowed ". . . all acts reasonable and necessary for the promotion of the educational interests of the county and the general diffusion of knowledge among the citizens."[21] In Utah, C.H. Jensen, the State Superintendent, explained:

> It is rather fortunate that the law which consolidated the schools in Utah . . . placed in the hands of school boards, among other powers, the power "to do all things needful for the maintenance, prosperity, and success of the schools and the promotion of education." Boards have interpreted the above law liberally, whenever they have felt that the welfare of the pupils could be best served by so doing.[22]

By 1934, twenty-three states had made pupil transportation mandatory under certain conditions, to be judged by the local school board.[23]

It is unclear what authority allowed school boards to compel students to attend schools located a distance from their homes. Fortunately, traditional American respect for education as an agency of society has been so profound that the question never arose in practice. Compulsory attendance laws exist in almost every state, as does the precedent of mandatory boarding schools. As Monahan reported in 1914: "Maine, Vermont, Minnesota, South Dakota, and Oregon permit payments for board and room for pupils in homes convenient to the schools where the cost of so doing does not exceed the cost of transportation."[24] The Maine act provides that school committees may authorize their superintendents of schools "to pay for board and room at a suitable place near any established school instead of providing conveyance, when it can be done at an equal or less expense."[25] Nobel reports that a 1922 U.S. Bureau of Education bulletin mentions the existence of 225 dormitories "established in connection with the public secondary schools of 21 states."[26] When pupils can be required to board away from home in order to advance educational opportunities, is it any wonder that school officials' powers to mandate daily transportation are seldom questioned?

Methods of Transportation

The basic plan for public school transportation was outlined by Monahan in 1914:

> Usually the school wagon follows a definite route and children meet it on the route. The wagons are required to run on schedule and leave fixed points at set times. In a few cases wagons go to the homes of the children. Ohio requires the wagon routes to be arranged so that no child will have to walk more than one-half mile to take the wagon; South Dakota, so that no child will have to walk more than five-eighths of a mile. Iowa prohibits the wagons from leaving the public highways to receive or discharge occupants, and provides that children living "unreasonable" distances from school or wagon routes may be transported by parents or guardians, who receive compensation for so doing.
>
> While the wagon is the usual form of conveyance furnished at most schools, many children are transported in all parts of the country by steam railroads or electric roads. In Massachusetts and California, and undoubtedly in other states, automobile buses are coming into use. In Virginia, on one route, a gasoline launch is used.[27]

By 1940, the types of vehicles in use included: railroads (14 states had legal provisions regarding these), trolleys, taxis, private and public passenger cars, steamboats, and sleighs.[28] Belmont Farley, in his amusing 1938 essay, *Willingly to School*,

discovered dog sleds, snowmobiles, motor boats, and even a cable basket in Lemni County, Idaho.[29] The Superintendent of the Northwestern School District of Alaska, in 1921, accompanied his charges to school on a reindeer-sled.[30]

Monahan adds a pointed warning against reimbursing families for transporting their children to school privately:

> One of the principal disadvantages is the expense. It does not require a larger expenditure of school funds, but the total expended by the school patrons is much greater. A large amount must be invested in horses and vehicles, and stabling and feed for the horses provided. If the children themselves drive, the horse is not available for other work on school days. Another disadvantage is that it does not assure the regularity of attendance and the freedom from tardiness resulting from the use of transportation wagons or of public electric or steam railroads.[31]

Against this must be set the remarkable success of the North Carolina system where, to this day, pupils drive the school buses.

Extent of Pupil Transport

Table IV summarizes Massachusetts state contributions to pupil transport from 1889, when the State Board of Education began collecting statistics, until 1912.[32] By 1910, fourteen states were collecting information on transportation expenditures, as reported in Table V.[33] By 1920, the percentages of all pupils who were transported were available; they appear in Table III. The growth of pupil transportation can be traced by comparing the national expenditures gathered by *Bus Transportation* magazine from 1926 to 1938.[34] During this period, the total increased by 180 percent. (Table VI presents these totals.)

Table IV

Cost of Pupil Transportation in Massachusetts from 1888-89 through 1912-13.

School Year	Transportation Expense
1888-1889	$ 22,118
1890-1891	30,649
1895-1896	91,136
1900-1901	151,773
1905-1906	236,415
1910-1911	329,857
1912-1913	384,149

Table V

Expenditures on Pupil Transportation in 14 States Reporting in the year 1909-10

State	Transportation Expense
Connecticut	$ 72,077
Florida	24,133
Indiana	155,390
Iowa	25,434
Louisiana	54,000
Maine	114,795
Maryland	5,210
Massachusetts	310,422
Minnesota	63,253
New Hampshire	57,993
New Jersey	145,737
North Dakota	104,150
Vermont	92,019
Virginia	46,908

Table VI

Cost of School Bus Transportation in the United States, from 1926 to 1938

Year	Total Cost
1926	$23,430,195
1927	24,659,598
1928	27,256,738
1929	30,119,302
1930	34,044,138
1931	40,696,398
1932	48,759,730
1933	50,533,603
1934	48,562,565
1935	52,621,881
1936	55,280,496
1937	61,032,340
1938	66,011,592

Table VII

Percent of average daily attendance transported to school at public expense in the school years 1920-21, 1937-38, and 1970-71, by State

State	Percent Transported		
	1920-21	1937-38	1970-71
Alabama	1.9	26.3	47.6
Alaska	---	---	41.1
Arizona		17.5	29.7
Arkansas	0.3	14.6	52.2
California		8.2	19.7
Colorado	7.5***	8.3	35.3*
Connecticut	2.9	11.1	57.0**
Delaware		24.6	60.7
Florida	4.8	18.9**	34.6
Georgia	2.3	16.8**	56.4
Hawaii	---	---	---
Idaho	1.8	20.3	52.2
Illinois		1.5	32.8
Indiana	13.1	30.0	56.6
Iowa	8.5***	11.0	44.0
Kansas	1.3	3.9	35.7
Kentucky		11.8	63.1
Louisiana	7.1	28.8	64.4
Maine		14.2	65.9
Maryland	7.6	17.8	58.1
Massachusetts	5.0**	7.1	44.5**
Michigan		3.7	36.5**
Minnesota	5.1***	22.2	48.2
Mississippi	11.8	23.0	54.7
Missouri		6.4	63.9
Montana	3.5	9.5	30.1
Nebraska	1.5***	1.0	19.9**
Nevada		8.9	39.6
New Hampshire		15.2	60.8**
New Jersey	4.5	10.8	30.5**
New Mexico	8.6	20.2	43.3****
New York		5.4	45.6*****
North Carolina	1.6	32.6	62.2
North Dakota	16.4	16.3**	40.3
Ohio		20.2	50.9
Oklahoma	2.3	15.6	39.3*
Oregon	1.4***	12.0	56.5**
Pennsylvania	0.4***	5.3	57.4
Rhode Island		3.8	50.5*
South Carolina	0.5	13.3	56.0
South Dakota	2.4	4.6	32.7
Tennessee	1.2	17.3	52.6
Texas	0.3	21.2	23.0
Utah	5.1	21.0	32.9
Vermont	8.8	8.4	65.2
Virginia	2.5***	22.6	62.4
Washington		23.8**	49.4
West Virginia		22.2	70.1
Wisconsin		4.6	50.2
Wyoming		21.2	34.7

* Percentage based on total school enrollment rather than average daily attendance.

** Data for the preceding school year.

*** Data for the subsequent school year.

**** Percentage based on average daily membership rather than average daily attendance.

***** Large cities omitted in some cases. (New York State excludes New York City only.)

As Table VII demonstrates, the percentage of pupils transported to school increased steadily from 1920 to 1970.[35] This increase occurred throughout the country, and especially in the midwest where the early New England type school district disappeared only slowly. Although the percentage of students riding to school continues to increase, as Table VIII shows, the rate of increase has been gradually declining since the 1920's, particularly since 1954.[36]

Transportation in an Oregon District

Table VIII

Percent of total enrollment transported at public expense from 1920 to the present.

School Year	Percent Transported
1920-21*	5.6
1929-30	7.4
1931-32	9.2
1933-34	10.6
1935-36	12.3
1937-38	14.5
1939-40	16.3
1941-42	18.3
1943-44	19.4
1945-46	21.7
1947-48	24.4
1949-50	27.7
1951-52	29.0
1953-54	32.8
1955-56	35.0
1957-58	36.5
1959-60	37.6
1961-62	38.1
1963-64	38.7
1965-66	39.7
1967-68**	41.3
1969-70**	42.8

* Percentage based on average daily attendance and not enrollment, for 31 states, some having data only for the preceding or following year.

** Percentage based on average daily attendance and not total enrollment, for 36 states.

Cost of Pupil Transportation

The per pupil cost of school transportation has grown considerably over the years. The first available figures (from Concord, Massachusetts in 1887) report annual wagon transport costs of $19.44 per child.[37] In 1967-68, for the United States as a whole, annual per pupil costs had risen to $23.06.[38] This increase is doubtless due to the dollar's declining purchasing power, only partly offset by the fact that modern motor buses do not require fuel during idle periods.

A more relevant comparison is the per child cost for transported pupils only. Table IX shows the 1911-12 figures for several states. They range from $10.03 (Georgia) to $28.72 (Vermont).[39]

Table IX

The cost, per pupil, per year, of pupils transported to school at public expense, for several states in the school year 1911-12.

State	Cost per pupil transported
Connecticut	$23.69
Georgia	10.03
Indiana	19.04
Iowa	20.70
Minnesota	21.70
Ohio	15.00
Oklahoma	13.12
Vermont	28.72
Washington	25.00

Table X shows national figures for 1929 through 1966.[40] During that span of nearly 40 years, the cost per transported pupil has nearly doubled (while the costs of aluminum, electricity, and celluloid have actually declined).

Table X

Cost, per pupil, per year, of pupils transported to school at public expense, for the years 1929-30 through 1965-66, for the United States

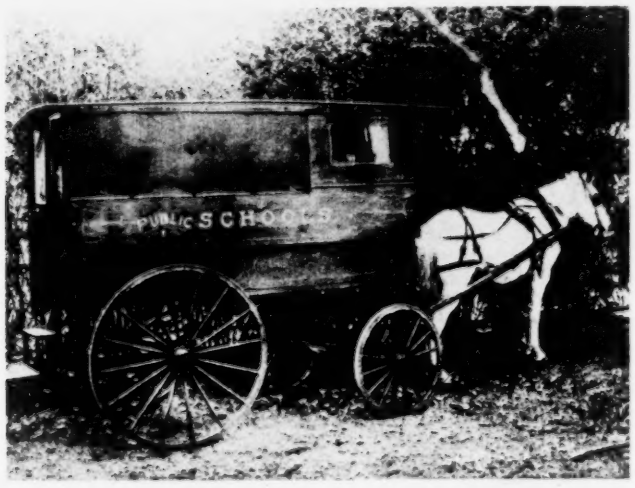
School Year	Cost per pupil transported
1929-30	$28.81
1939-40	20.10
1949-50	30.88
1959-60	39.78
1965-66	50.68

As the cost of motor transport shot up, total school expenditures on all aspects of education also increased, (although not quite as quickly). In 1921-22, 1.7 percent of school operating expenditures were committed to pupil transport.[41] By 1935-36 the percent had more than doubled to 3.8.[42] In the next 30 years, the percentage increased another one-fifth of one percent (to 4.0) by 1967-68.[43] Perhaps this shows that, as pupil transportation proves its value, schools commit ever increasing proportions of their resources to its employment.

Reasonable Limits on Pupil Transport

There is considerable interest in establishing a reasonable standard for the amount of time children may be expected to spend getting to school. E.E. Ramsey of the Indiana State Department of Education said, in 1923:

> I believe that the amount of time that pupils should spend in transit to and from school is one point that might be standardized. It occurs to me that if a pupil spends two hours per day going to and from school, that this is as much time as should be allowed for such purpose.
>
> In some of the better portions of Indiana, another condition has arisen in the last 20 years, of which full advantage has not been taken. I refer to the interurban system which is to be found in many parts of central and northern Indiana. Transportation is possible for much greater distances over the interurban lines than in any other way. Fifteen to twenty miles would not be an excessive distance for transportation by such a method. It happens, however, that the unit of administration for rural schools in this State is such that it renders this desirable means almost wholly inoperative. The township unit of administration usually means that pupils will not be transported outside their own school unit.[44]



A North Carolina Wagon

Other states established different standards, but none less than that proposed by Mr. Ramsey.[45]

A 1924 survey of 260 consolidated school systems reported the lowest average one-way travel time to be 10 minutes; the greatest was 100 minutes; the median 35 minutes.[46] Because these are system-wide averages of all the transit times, it is clear that many systems exceeded the one-hour one-way standard proposed by Mr. Ramsey. By 1940, however, the one-hour one-way standard was generally accepted, although not always adhered to because of cost considerations.[47] One way routes more than 2 hours long still exist in some parts of North Carolina, for example.

Transporting Black Children

The benefits of attending larger, more socially mixed schools have long been noted. R.F. Gaither, principal of the Mays Lick Consolidated School in Mason County, Kentucky, explained the effect on black children in 1914:

> Everyone knows of the inspiration that comes from numbers. We have all felt the difference between plodding along alone and being carried on by the sweeping current of the crowd. The child feels it perhaps more sensibly than the adult. The Southern Negro, who is more nearly the child of Nature than the white man, feels it to such an extent that he is almost gregarious. This love of the crowd is in almost all normal people. It is one of the influences that draw boys and girls to the city. Its effect is as great in school as it is elsewhere.[48]

Principal Gaither also noted a second effect:

> The benefits accruing to the country pupil from consolidation can hardly be estimated. It gives him a broader life, widens his vision, and affords him an opportunity to more nearly fill up his life to the full measure of its possibilities. In the consolidated school the pupil has a wider circle of acquaintances and learns to estimate his own value. He has a better opportunity to realize that he is really one of the units of an active world. He does not have

> to come into middle life before it dawns on him that he should be one of the active agents in shaping the trend of affairs, political and otherwise.[49]

Some black children who have attended consolidated schools will doubtless attest to this latter point.

Whatever the benefit of attendance at consolidated schools, many black children became intent upon possessing it. Leo M. Favrot, Louisiana State Agent for Negro Schools, pointed out in 1923:

> Even our Negro population realizes the advantages of a large central school to such an extent that the Negro child is willing to walk great distances to attend a school of this type and demands a school of this type in preference to a one-teacher school.[50]

Mr. Favrot was acute in stressing the black child's willingness to walk. In 1936-37 the proportions of black and white children who were transported to school were quite different in the twelve Southern states. As Table XI indicates, the proportion of whites transported to school at public expense was nine times as great as the proportion of blacks.[51]

Table XI

The proportions of the white and black total enrollment transported to school at public expense in 12 Southern States during the school year 1936-37.

State	Percent of total enrollment transported to school, by race:	
	white children	black children
Alabama	38.9%	1.7%
Arkansas	18.4	3.0
Florida*	25.1	1.6
Georgia*	25.6	1.0
Louisiana	45.2	0.5
Maryland	20.4	7.3
North Carolina	43.9	6.7
Oklahoma	16.2	8.6
South Carolina	24.4	0.1
Tennessee	20.5	2.0
Texas	24.2	5.7
Virginia	28.9	5.4
TOTAL	27.3	3.2

* For the preceeding year.

An explanation for this discrepancy was offered in 1923 by J.T. Calhoun, State Rural School Supervisor of Mississippi:

> In Mississippi we have very few consolidated Negro schools because Negros, as a rule, live in colonies or on large plantations in such great numbers that it is not necessary to transport them in order to make a school large enough to do efficient work.[52]

He also pointed out that "The western portion of Mississippi is in the Delta, where the land is rich, the tax valuation is high, and the white children are a considerable distance apart."[53]

The proportion of black children transported to school at public expense can be expected to increase substantially, however, as ever greater numbers of blacks relocate to cities. This is because, as Noble observed:

> There are many factors which cause cities to make provisions for the transportation of normal children. Among such factors are: (a) Distance; (b) State laws; (c) the consolidations of schools; (d) poverty; (e) segregation of races; and (f) safety.[54]

Indeed, as the Bureau of Education's survey of city school systems makes clear, cities were making rapid progress in the provision of transportation to children in 1921-22.[55] New York was spending $333,000 annually, Chicago $143,000, Philadelphia $49,000, Cleveland $27,000, Newark $15,000, Los Angeles $29,000, Boston $10,000, and Detroit spent $9,000. By 1938, 71 percent of the largest 327 cities were busing children to school.[56] As blacks move increasingly into larger cities, a greater proportion of them can be expected to benefit from school transportation provisions at public expense.

Voice of the People

Research on pupil transportation has grown energetically from the very beginning of the modern period. Only a small portion can be presented here.

One of the most frequent forms has been the public opinion poll. In 1898, Mr. G.T. Fletcher

made a public inquiry for the Massachusetts Board of Education which "showed the attitude of the public toward the policy of consolidation as seen by the school authorities — 70 percent of the people approved the policy and 30 percent opposed it."[57]

In 1913, 120 Connecticut townships reported these results of a pupil transport poll:[58]

Satisfactory to Parents	Beneficial to Schools	Number Reporting
YES	YES	95
NO	YES	9
NO	NO	4
NO	no report	4
no report	no report	8

The effect of pupil transportation on the attitudes of parents can be most marked. In 1914 Professor A.B. Fraham of Ohio State University discovered that in Ohio:[59]

> 80 percent of the parents report that their children attend more regularly under transportation than they did previously.
>
> 90 percent report their children more interested in school than before.
>
> 95 percent think their teachers show more interest in their work.
>
> 100 percent practically agree that the social and educational interests of the township consolidated have greatly improved.
>
> 75 percent of those who were formerly opposed to consolidation and transportation are now in favor of it.

Pupil Safety

The National Safety Council has determined that motor buses are substantially safer than horse drawn conveyances for pupil transport.[60] In fact, school bus safety is generally very high: "pupil transportation has been conducted with few serious accidents. During the five-year period 1931 thru 1935 only nine school bus accidents were reported in the columns of the New York Times."[61]

Compared to private modes of transportation, school bus travel is exceptionally safe: in 1968, the National Safety Council found school buses 4 times safer than ordinary buses, and 40 times safer than private cars.[62] This is certainly one reason why suburban parents are turning to school buses in preference to driving their children to school, because, as *School Management* magazine reported: "Accidents seem to be caused most often by the use of vehicles not designed as carriers of children and by allowing children to stand in aisles."[63]

It is very difficult to compare motor bus transportation with walking because children who walk to and from school so often engage in unsupervised activities, or enter dangerous areas, that their accident and injury rates are far higher than those of children who go to school by any other means.[64] As E.W. Hausser found, in his unpublished 1938-39 study, *Effect of Pupil Transportation on Pupil Health in Spencerville, Ohio*, children who were transported to school benefited in several respects.[65] His conclusions are summarized in Table XII, which shows that transported pupils had fewer absences, and fewer illnesses, and fewer days lost due to personal illnesses.

Table XII

Incidence of absence and illness among transported and walking pupils, in Spenserville, Ohio Public Schools during the school year 1938-39

Rate Per Pupil	Among Transported pupils, per year	Among Walking pupils, per year
Days Absent	11.2	11.9
Cases of Illness	2.3	3.4
Days of Illness	5.5	6.6
Number of Pupils	202	140

The only study of the psychological consequences of pupil transport shows ". . . no significant medical or psychiatric 'harm' or 'injury' as a result of the travel or change."[66]

Transportation of younger children is a special question because they, of course, cannot be expected to travel as great distances as secondary students can. A 1938 survey of 250 school superintendents recommended a median maximum busing distance to school of 12.25 miles for elementary students, although older students were allowed a maximum of 19.4 miles.[67] With today's

better roads and faster buses these distances could perhaps be extended slightly.

In Conclusion

Methods for improving the school as a social agency move in cycles. At first, school consolidation and pupil transportation were confined to cities where they brought about the first modern school systems (and in some cases, modern cities). Then the focus shifted to the countryside, where much of the rural population was congregated. There, school consolidation and pupil transportation transformed the lives of country children, although questions about the equity of the property tax basis for school financing never quite died.

By the 1920's and 30's, attention shifted back toward the cities, and urban transportation and school consolidation grew apace. Because a growing proportion of the black school population was located in the cities, they attained the benefits of school transport "by the hand of the state" in large numbers for the first time.

Today perhaps requires another cycle. New concentrations of suburban country people are growing up in areas of our nation that once were rural. For the benefit of their children, one more extension of school consolidation and pupil transportation can finally bring about the goal proposed by Monahan in 1914:

> The larger school brings its pupils into contact with several teachers and a larger group of children than in the small school, who come from many different kinds of homes and from a wider territory than those in the single district. This contact with many children widens their visions and gives to them a breadth of view impossible in the small district. There is a disappearance of much of the shyness and bashfulness often particularly noticeable in the country child, a trait which often proves a handicap to him in affairs of his later life. He not only has contact with a large group of children, but he associates with them, measures himself against them, and forms a more correct estimate of himself and his ability than is possible otherwise. He learns to take his part in their activities, to cooperate, a lesson sadly needed in American country life.[68]

Automobiles used to transport pupils, Brawley School, Imperial County, Cal.

FOOTNOTES

[1] L.D. Harvey, *Consolidation of School Districts and Transportation of Rural School Pupils at Public Expense*, Bulletin of Information No. 7, State Dept. of Public Instruction (Madison, 1902) p. 16.

[2] Arkansas State Dept. of Education, *Study of Local School Units in Arkansas* (Little Rock, 1937) pp. 110-13.

[3] *New York Times*, 1972, *passim*.

[4] M.C.S. Noble, Jr., *Pupil Transportation in the United States* (International Textbook Company, Scranton, Pennsylvania, 1940) p. 45.

[5] *New England's First Fruits* (London, 1643).

[6] Noble, footnote 4, pp. 1-2.

[7] F. Douglass, *Life and Times* (Park Publishing Company, Hartford, Conn., 1881) Chapter 14 and *passim*.

[8] R.E.N. Twopenny, *Town Life in Australia* (London, 1883) p. 141-42.

[9] C.M. Smith, *The Working Man's Way in the World* (William and Frederick Cash, London, 1853) p. 3.

[10] J.F. Abel, *Consolidation of Schools and Transportation of Pupils*, Dept. of the Interior, Bureau of Education, Bulletin No. 41 (Washington, D.C. 1923) p. 6.

[11] United States Bureau of Education, *The Educational System of South Dakota*, Bulletin No. 31 (Washington, D.C. 1918) p. 28.

[12] F.H. Swift, F.K. del Plaine, O.L. Troxel, *Studies in Public School Finance, the Middle West — Illinois, Minnesota, South Dakota*, Educational Series 3, University of Minnesota (Minneapolis, 1925) p. 80.

[13] H.A. Dawson, G.C. Floyd, H.A. Little, and D.M. Hirst, *Larger School Units for Arkansas Consolidated Schools and School Units*, State Dept. of Education (Little Rock, 1930) p. 13.

[14] F.H. Wood, *Central Schools and the Centralization of School Districts in the State of New York* (Carl W. Clark, Publishers, Cortland, 1938) p. 3.

[15] Noble, footnote 4, pp. 68, 92. His authority: United States Office of Education, *Handbook for Planning the Reorganization of Local Schools*, Circular No. 156 (Washington, D.C. 1936).

[16] R.L. Johns, *State and Local Administration of School Transportation*, Teachers College Contributions to Education No. 330 (Columbia University, New York, 1928) pp. 6-7.

[17] Abel, footnote 10, p. 5.

[18] *Id.*, p. 17.

[19] A.C. Monahan, *Consolidation of Rural Schools and Transportation of Pupils at Public Expense*, Bureau of Education, No. 30 (Washington, D.C. 1914) p. 7.

[20] *Id.*, p. 8.

[21] *Florida Statutes*, Chapter 3, 872, 20, 11 (1889).

[22] C.N. Jensen, *A Study of Transportation in the Schools of Utah*, State Dept. of Public Instruction (Salt Lake City, 1928) p. 4.

[23] J.C. Eddleman, *The Regulation of Pupil Transportation in the United States*, Bulletin of the Bureau of School Service, VI, No. 3 (University of Kentucky, 1934) p. 14.

[24] Monahan, footnote 19, p. 27.

[25] *Id.*, p. 37.

[26] Noble, footnote 4, p. 45.

[27] Monahan, footnote 19, p. 45.

[28] Noble, footnote 4, pp. 25-26, 132.

[29] B. Farley, *Willingly to School*, National Education Association (Washington, D.C. 1938).

[30] United States Bureau of Education, *Report of the Work of the Bureau of Education for the Natives of Alaska, 1912-1913*, Bulletin No. 31 (1914) p. 24, plate 6.

[31] Monahan, footnote 19, p. 45.

[32] *Id.*, p. 12.

[33] Abel, footnote 10, p. 18.

[34] Noble, footnote 4, p. 11.

[35] Data for 1920 from Abel, footnote 10, p. 58. Data for 1936-37 from Noble, footnote 4, pp. 178-79. Data for 1970-71 from HEW Office of Civil Rights.

[36] Data for 1920 to 1965 from *The Digest of Educational Statistics, 1968*, United States Office of Education, p. 37. Later data from HEW Office of Civil Rights.

[37] Monahan, footnote 19, pp. 10-11, computed by this author.

[38] G. Kahn, *Analysis of Financial Statistics of Local Public School Systems, 1967-1968*, HEW National Center for Educational Statistics (Washington, D.C. 1970) p. 25.

[39] Figures variously computed from Monahan, footnote 19, pp. 14, 16-26, 50-54.

[40] United States Office of Education, *The Digest of Educational Statistics, 1968*, p. 37.

[41] Computed from F.M. Phillips, *Statistics of State School Systems, 1921-22*, Bureau of Education, Bulletin No. 31 (Washington, D.C. 1924) Tables 24 and 25.

[42] Noble, footnote 4, p. 28.

[43] Kahn, footnote 38, p. 24.

[44] In J.F. Abel, *Consolidation and Transportation Problems, Report of the Second National Conference on Consolidation of Rural Schools and Transportation of Pupils, Cleveland, Ohio, February 26, 1923*, Dept. of the Interior, Bureau of Education, Bulletin No. 39 (Washington, D.C. 1923) p. 12.

[45] *Id., passim*.

[46] J.F. Abel, *A Study of 260 School Consolidations* Department of the Interior, Bureau of Education, Bulletin No. 32 (Washington, D.C. 1924) p. 33.

[47] J.E. Butterworth, and V. Ruegsegger, *Administering Pupil Transportation* (Educational Publishers, Minneapolis, 1941) p. 8.

[48] Monahan, footnote 19, p. 76.

[49] *Id.*, p. 75.

[50] Cleveland Conference Report, footnote 44, p. 20.

[51] Noble, footnote 4, p. 182.

[52] Cleveland Conference Report, footnote 44, p. 13.

[53] *Id.*

[54] Noble, footnote 4, p. 121.

[55] F.M. Phillips, *Statistics of City School Systems, 1921-22*, Dept. of the Interior, Bureau of Education, Bulletin No. 34 (Washington, D.C. 1924) Table 2.

[56] Noble, footnote 4, p. 121.

[57] Monahan, footnote 19, p. 12.

[58] *Id.*, p. 49.

[59] *Id.*, p. 50.

[60] *Time*, Feb. 28, 1972, p. 15.

[61] Noble, footnote 4, p. 437.

[62] "Facts About School Buses," *School Management* (Magazine), April 1971, p. 11.

[63] *Id.*

[64] *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 91 S.Ct. 1267 (1971), Appendix to Brief for Petitioners, No. 281, at Br. A16.

[65] *National Survey of School Bus Transportation, 1938-39*, Teachers College, Columbia University, cited in Noble, footnote 4, pp. 425-28.

[66] R. Coles, "Northern Children Under Desegregation," 31 *Psychiatry* 1 (1968) p. 14.

[67] Noble, footnote 4, p. 435.

[68] Monahan, footnote 19, p. 65.

White Parents' Fears

by Patricia M. Derian

Most white parents, raised on the myths of black indolence, ignorance and immorality, fear school desegregation on a basic, if sometimes unconscious, gut-level. This is one white mother's view of what happened to those fears when school desegregation came to Jackson, Mississippi in the late 1960's: what they were and how they were overcome.

From the beginning, most white parents believed that great harm would befall their children at the hands of black teachers and pupils. Poor and working class whites thought, and said, that their children would catch syphilis from sharing toilets with black children. If they escaped this, they feared knifings or other physical assaults. In Mississippi, the Ku Klux Klan and white Citizens' Council promoted these fears.

White-gloved Calm

Even in the early sixties, (when supportive whites spoke only of school "desegregation"), small groups of white-gloved, middle class women were trying to allay these fears through "respectable," low-key, non-threatening organizations. With little money, and caution from community leaders, they held coffees, talked to other mothers, spoke in small public meetings, and bought television spots and a handful of billboards. Like the little boy in the Emperor's New Clothes, they answered "nonsense" politely and quietly, but very firmly, to a hundred years of racism. They reproached white society with their "goodness" and "bravery." And they were not destroyed by the Klan or the "all powerful" white Citizens' Councils. This was the extent of the effort during the middle-sixties, the years of freedom-of-choice, when few black and white children attended the same schools.

The advent of "massive" desegregation in 1969 brought a regrouping. Some women who had worked through dangerous times gave up their advocacy of integration. Some tired of cajoling the middle class, some missed the romance of standing alone against heavy odds. Others (most) thought that massive desegregation was too much, a mistake. They had reached their limit.

The Second Coalition

A new coalition of "respectables" waited in the wings. It included recently arrived yankee parents, stunned chamber of commerce types who knew that no new business would come to a place without public schools, the morally upright whose religions finally declared that racism was a wicked sin — and some outright integrationists. This coalition had its limits too: it was all-white, and an abortive effort to have a bi-racial parent group failed because white parents' worries differed from black parents' concerns. Nor did it include poor whites; it was entirely middle class, chiefly from one geographic location.

Although unwilling to articulate it, middle class people fear loss of approval more than anything else. The new coalition was large enough for the parents to take comfort and courage from each other, and to feel some disdain for friends and neighbors who had stampeded to private segregation academies. Nonetheless, some anxiety remained.

It was widely believed that few black teachers were adequately trained, for who had not heard stories of northern colleges handing out degrees to Southern blacks just to spite the whites? Parents feared that their children would not be able to get into college. They rarely voiced, but still held, fears that their children would not be safe in school. Finally, they worried about their children's isolation in two ways: in schools where whites constituted a small minority, and in white society, because most children and most social organizing had moved to segregation academies.

The Great White Bus

Many working class parents, still feeling desegregation was "wrong," separated themselves from the racist bigot image by attacking the new villain: forced busing. One group even held classes for their children in a parked bus, proclaiming angrily that they were not opposed to school integration. It was a curious sight indeed: counterparts of those contorted faces of Little Rock and New Orleans solemnly affirmed their fidelity to

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the "traditional" way of school integration. Some borrowed money and cut back expenditures to put their children in white Citizens' Council schools (to which they rode in school buses painted white). Others kept their children out of school a semester, a year, or for years. But most poor and working class whites – without support from the schools, community, or political leaders – simply bit the bullet and sent their children into the unknown because there was no alternative. The result was a large number of white children attending massively desegregated public schools for the first time.

Parental Support

At this point the middle class parents, organized to meet their own needs, began to have a community-wide impact. Parents popped up in all the schools, tutoring, helping in a thousand ways, adding to the white faces, watching with as much good will as they could muster. They manned telephone rumor centers and tracked down every hysterical story of bombings, rapes and knifings that had not taken place. They spoke to civic clubs, advertised, and visited other white parents door to door so that their children would not remain a small minority.

Parental pressure on school officials began to change the teaching system, radically and fast, to help black children from poorly equipped, understaffed, substandard schools to catch up and keep up. Parents supported school efforts to get every available federal dollar. They joined groups that had formerly been all-black or civil rights oriented, to get community ESAP grants to aid the desegregation process.

Parents also sent their children to school and told them to keep quiet, mind their own business, and stay out of trouble.* As a result, most white children were wary of contact with black classmates during the first year of integration. School officials obliged by tracking white children only into classes where there was at least a small group of whites, and whites bunched together cautiously.

Because rabidly anti-black children of rabidly anti-black parents had been removed from the public schools, the segregation academies have served as safety valves, leaving public schools cool and relatively placid. As a consequence, white kids have relaxed enough after two years to make tentative overtures to black kids, which were met in kind. At the junior high level, and above, they are beginning to work across the old myth. Elementary school children are going to be incredulous when they grow up enough to learn how it was in the olden days.

No Utopia

This is not to say that utopian ideals will be realized. Racial hatreds and fears, and the brawls and incidents that spring from them, are not going away. But many American children will have different experiences in these multi-racial classrooms, and they will exert further pressure for improvement and reform. They are learning that class differences outweigh racial differences, and they may become determined to eliminate poverty.

In summary: white parents start with irrational fears about health and safety. Most parents move along, with the uneventful progress of their children, to a guarded acceptance of full integration and busing. But they remain cautious and feel ever-ready to pull their children out of the newly-desegregated schools if things go wrong. About grade ten or eleven another middle-class parental crisis occurs: parents fear that the schools are not good enough and that their children will not be admitted to a decent college, or will be unready for the college load. Most Southern schools have needed improvement at least twenty years, so this worry was valid before any one spoke unpleasantly to white school administrators (who were busy preserving segregation). But facts have little to do with how people handle anxieties.

In schools where whites are now in the minority, a large scale white student return to public schools must occur or the system is likely to lose whites consistently until it becomes all black. In places where whites have remained the numerical school majority, schools should improve so long as parents maintain their interest and insistence. If Jackson's experience is any example, white fears will gradually diminish in the face of cumulative evidence that black and white boys and girls attend school together every day, safely.

* Sometimes fate conspires to frighten us all. After the Jackson State killings, a 7th grade girl came home recounting a school conversation about what to do if police came shooting into their school. Her parent's reassurance that that would not happen was answered with an understanding: "Oh, they only shoot college students."

Black Parents' Hopes

by Roger Wilkins

Blacks who can remember being bused for the maintenance of segregation find the current heated debate over busing both bemusing and infuriating. We feel the same way about politicians and pundits who seem sure they know that black parents don't want busing any more than white parents do. It puts one in mind of the old white Southerners who used to assure Northerners that, "our darkies are happy down here," and would then trot one out to prove it. Well, this one's not very happy about the whole busing debate.

My first educational experience was in a one room segregated school in Kansas City, Mo., where I was allowed to come and sit in the back of the room at the age of four because all my older friends were there. The next year, that school was closed and my friends and I were bused many miles to a black school in a blacker part of town. Apart from a keen daily sense that the whites were terribly selfish for hogging the newer and prettier school near our homes, I remember the bus rides as generally convivial and sometimes pretty hilarious. My next stop was Harlem where you learned a lot if you were in an upper track and paid for it with lumps dealt out in the school yard or in the street by resentful lower trackers.

And then on to high school in a midwestern city. If I wasn't the first black in the school, I was the only "one" there then and my family and I were the only "ones" in the neighborhood. In the classroom it was fine with the algebra and the English, but on the street it was tougher than Harlem. Somebody always seemed to have had to clear a clogged throat right on the furry cover of my bicycle seat. Rather than face the humiliation of cleaning it off in view of the passing crowds thronging out of the school, I would often ride home standing up and sometimes through a gauntlet of stones, apple cores and teen-age racial epithets.

But it turned out all right. I learned enough in that school to get into college. And I learned some other things too. Things I couldn't have learned in my Kansas City schools nor in my Harlem schools. They were things about white people and things about myself. I learned that whites are not the superior people they were made out to be. Some of them were smarter than I and some not as smart. Some could pump in baskets from the corner better than I and some couldn't make the team at all. And eventually, over time, I came to learn that they and I could deal in human terms across racial lines. And they learned things from me too, about blacks that they could never have learned in an all-white school. Yesterday's coon turned out to be a contemporary kid and tomorrow's man. Though it hurt me a lot in the beginning, it was worth it – for all of us. People don't learn to function very well in multiracial societies when they do all their learning in uni-racial schools.

My mother's judgments about my education were based partially on the circumstances of her life and partially on her desire that her child receive the best education her resources could provide. She did not seek an all white high school for me, but she was certainly not displeased that the one I attended was the best school in town. She knew to a moral certainty that she didn't want her son to be an illiterate or an emotional cripple hobbling through the last five or six decades of his life. She figured that knowing how to read was essential, but that learning something about white people was useful too. Inadvertently, I suspect, her decision helped a lot of white kids too.

The choice, then, is not to bus or not to bus, but to teach children to read and to live among the wide variety of people with whom they will spend their lives. We can either integrate – sometimes using buses as a tool – or we can choose to create a future generation of cripples, savages and bigots.

Years after my mother had made her choices for me, I had to begin thinking about the same kind of choices for my own children. When it became clear by my daughter's fourth year in a largely black school that she was reading at least two years below grade level, my wife and I took her out of her neighborhood school, and put her on a bus headed for a much better school ten miles from home, which also happened to be integrated. When my son became five, he joined his sister on that same bus headed for the same integrated school where they could learn in a gentler way than I had two decades earlier how to live in an integrated world. They both began to read. And that was the essential point.

Roger Wilkins, former Director of the Justice Department Community Relations Service and Ford Foundation program officer, has recently joined the Washington Post *editorial board.*

Does Busing Harm Children?

by Robert Coles*

I speak as a child psychiatrist who has worked with black and white children in the South as well as the North, in rural as well as urban areas. I also speak as a physician who has been studying what happens to children when they attend desegregated schools, and in that connection, one who once spend over a year and, later, smaller amounts of time (weeks and months) riding with children on school buses as they went from their homes to newly integrated schools.

In this regard, it is possible for me to say a number of negative things, and I had best do so immediately: I never saw children get sick because they were being bused; I never saw children become emotionally disturbed because they were bused; I never saw childrens' school work suffer because they were bused. Physically, psychologically, educationally, the experience of busing was, in fact, neutral.

What mattered was where the children felt themselves going, where their parents felt the bus was taking their children (to what school, for what purpose) and also, very importantly, what went on in the bus. Was the driver friendly or cold? Did he talk with children or ignore them? Were there others aboard who pointed out and explained things to the children? Often enough this turns a bus ride into an important psychological and educational experience in its own right: a different neighborhood looked at, talked about, comprehended in an altogether new way.

Busing is neither new nor rare in this country. Children ride buses every day, usually with the enthusiastic encouragement and support of their parents, their community, and no doubt, their elected Congressmen (not to mention the President). I have watched boys and girls day after day on those buses, black children and white children, and I have not seen them get sick, or disturbed, or apathetic. I have not been called upon to practice medicine or child psychiatry. I have not seen violence or disorder. Nor have I often seen time wasted. The children have been awake, alert, vastly interested in what they see of their city (although children who never board a bus often find themselves bored when they sit in certain classrooms).

The isses of busing, I say from personal observations over a long period, is not a medical one. It is not *per se* a psychiatric one. It may well not even be an educational one (except that some parents actively seek out busing for their children — even pay to have them bused long distances to private schools). Busing as a political issue ought to be argued openly with everyone's cards on the table. It does not even help to talk about "time wasted busing." Children can and do learn all sorts of things on buses — and can and do fail to learn while sitting solidly in classroom chairs for hours on end.

I have no doubt that we will continue to hear about the "harm" busing does to children, and I can only hope that more clinical observers will go out and see for themselves whether such harm can be documented. I fear, however, that our clinical observations are not going to be heeded, that they are not really what people are waiting for or have any interest in.

Robert Coles, a psychiatrist at the Harvard University Health Service, is the author of Children of Crisis.

*This brief communication can only be a summary of what I have tried to present elsewhere: "Bussing in Boston," *The New Republic*, October 2, 1965; "Northern Children Under Desegregation," *Psychiatry*, February, 1968; *Teachers and the Children of Poverty*, The Potomac Institute, 1970; *The South Goes North* (Volume 3 of *Children of Crisis*), Atlantic-Little, Brown. 1972.

RACE AND LEARNING: A Perspective On The Research

by Patricia M. Lines

The resurgence of school desegregation as a national controversy is forcing a new look at the ideas which permeate popular opinion on racial balance in the schools. Widespread, adamant resistance to "busing" – the code word for affirmative programs designed to promote school racial balance – has sprung up as desegregation efforts extended to the North, and became more than token enforcement in the South. At times this resistance has bordered on hysteria; at other times it is clothed in rationality, and included arguments premised on educational effects. Without attempting to analyze all aspects of the busing controversy, this article discusses the supposed educational effects of desegregation. It notes that the evidence supports neither the advocates nor the detractors of desegregation, and concludes that basic decisions affecting school desegregation should rest on legal and moral grounds rather than scientific research, regardless of what the research says.

Desegregation Theories

Social scientists have forwarded a variety of theories to explain why racially balanced schools should aid or retard learning. Each has different implications. Most focus on school resources, arguing that predominantly white[1] schools are better endowed with some resource or another, and that equal educational opportunity would require giving minority pupils equal access to these superior resources. These may include pupil-teacher ratio, experienced teachers and diversified facilities (the conventional measures), or it may include the presence of advantaged children who "teach" their less advantaged peers (the "peer group learning" theory), or higher expectations and better morale among teachers in white schools.

The social science research now available fails to show a relationship between conventional resources and achievement. The teacher expectation theory is also tenuous since teachers are able to distinguish poor, minority kids (usually black) from middle-class, white ones, and hold different expectations for each. Thus, by process of elimination, the "peer group learning" theory is most popular among busing advocates while the "teacher morale" theory is supreme among white anti-busing teachers. If any of these resources increase achievement, two-way busing schemes would, according to the theory, dilute resources available to whites while increasing those available to black children, with a consequent improvement in test scores of black pupils and a decline for whites.

Other theoretical explanations can also be postulated. If black pupils feel stigmatized by an all-black school, for example, removal of the stigma should boost their educational attainment without having an adverse effect on whites. If combining two or more cultures in a single school produces a lively and exciting atmosphere unattainable among homogeneous children, everyone might gain.

Although decisions seem to be made on the basis of these theories, none have been proven. No experiment has compared test scores of various racial groups, rich and poor, as classroom racial and socioeconomic composition was systematically varied. Analysis has had to rest instead on surveys, and studies of desegregation efforts. These have led to inconsistent conclusions – or none at all.

Coleman Report

The Coleman Report, based upon an examination of data collected in HEW's 1965 Equality of Educational Opportunity Survey, lends some support to the "peer group learning" theory. It noted a small relationship between pupils' achievement test scores and the percentage white in the school, and a stronger relationship between test scores and socioeconomic backgrounds.[2] Coleman concluded:

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> The higher achievement of all racial and ethnic groups in schools with greater proportions of white students is largely, perhaps wholly, related to effects associated with the student body's educational background and aspirations. This means that the apparent beneficial effect of a student body with a high proportion of white students comes not from racial composition per se, but from the better educational background and higher education aspirations that are on the average found among white students.

Research results often depend, however, on how the data are handled. Christopher Jencks of Harvard's Center for Educational Policy Research, using the same data as Coleman, compared first and sixth grades in schools in the urban North which were 50 to 75 percent white. Black first graders in these schools scored below the national average for black children; black sixth graders scored above. White first graders scored below their peers elsewhere, while white sixth graders in the same school scored very close to the white national average. This analysis must be received with reservations: first grade children might have had different socioeconomic characteristics than sixth grade children in the same schools, the tests administered to the first and sixth grade children were different and the first grade test was not reliable.[3] Nonetheless, the analysis offers tentative support for maintaining that racial balance increases both black and white pupils' test scores. It also undermines the "peer group learning" theory since white pupils experienced no loss on attendance at schools 25 to 50 percent black.

Several other surveys of more limited populations have produced mixed results.[4]

Studies of Desegregation Programs

Studies of actual desegregation reveal more confusing results. Reviews of the research by Meyer Weinberg, Nancy St. John and Robert O'Reilly report mostly statistically insignificant results.[5] However, of the 30-odd studies reviewed, most report a few significant differences in minority pupils' test scores in predominantly white and predominantly minority schools, at some grade levels on some tests.[6] More often than not, the differences show higher scores for minorities attending majority white schools. White kids' scores are reported less frequently, and significant findings are scarcer.

More recent studies of cities implementing desegregation plans – i.e., Ann Arbor,[7] Riverside,[8] Chapel Hill,[9] Evanston,[10] Sacramento[11] and New Albany, Mississippi[12] – have produced similar results. Usually minority pupils in some grades posted small gains on some tests; in a few cases they regressed. Usually the results were statistically insignificant. Changes in white test scores were even more difficult to find. White Ann Arbor pupils improved slightly, but the change was statistically insignificant. White Chapel Hill fifth graders made significant gains in math courses. New Albany, Mississippi also reported a small improvement in white test scores; but statistical significance was not reported. In Evanston both black and white eighth graders scored lower. Usually white test scores were virtually unaffected.

In sum, analysis of surveys and desegregation efforts fail to "prove" any of the theories outlined at the outset of this article. Since school desegregation takes place under a variety of radically different conditions, one school might do well, while another of the same coloration would fail. Breaking the research down more finely might explain the frequent lack of results, suggest a more likely theoretical base, and suggest better methods of achieving desegregation.

The Absence of Desegregation

In some studies, a closer analysis has revealed the absence of real desegregation, that is, classroom desegregation. The widespread use of ability grouping, or tracking, in perhaps 75 to 90 percent of all schools[13] sometimes results in studies of "desegregated" youngsters who were actually separated from middle-class whites and isolated in their classroom. After the two years of "desegregation" in Riverside, California, for example, someone noticed that most minority students had been grouped together or placed with low achievers; of course, this group continued to perform below norms. The most able minority-group children, however, were placed in majority-white classes and experienced increases in test scores.[14] The study, in effect, reveals nothing about the effects of desegregation on minority-group pupils generally.

Desegregation may also be too shortlived to be real. A few days in an integrated school are unlikely to produce a long lasting or measurable

educational change, and even a full school year may be insufficient. One study of a city-to-suburb busing program, Hartford's Project Concern,[15] noted a cumulative effect after the program had been underway for three years. Children who had been in the suburban system all three years scored consistently higher than children who participated only one or two years. No statistical analysis was made of the data, however. Coleman also reported a small positive relation between the number of years minority students spent in white schools and improvement in their achievement test scores.[16] This relation remained when the socioeconomic status of the school was held constant. Similarly, according to surveys in Boston[17] and Pittsburgh,[18] black children in whiter schools for two years scored higher on arithmetic tests than did their peers in such schools only one year. An Indiana study[19] reported black first graders were at roughly comparable levels in segregated and desegregated schools, but by the third grade, those in integrated schools moved ahead. Their advantage continued into the sixth grade. Similarly, a comparison of majority white and majority black schools in an upstate New York town[20] revealed no significant differences in achievement test scores, but a cumulative advantage appeared for black students experiencing at least two years in majority schools. The long-term effect on white test scores has not been adequately measured. Until there are more studies of long-term classroom desegregation, it will be impossible to attempt proof of any theory.

Age and Theory

A closer look at the research might also suggest another theory. Many integration studies suggest, for example, that integration in the early grades may be the decisive element in improving achievement scores of minority children. A Nashville study of 75 black children enrolled in desegregated schools found, for example, that those who entered the desegregated schools in the early grades scored higher on academic achievement tests than peers from the same neighborhoods who remained in segregated schools; in the fifth and sixth grades, however, the segregated children performed better than their black peers in the white schools.[21] A study of 87 low income blacks in a suburban New York town reported similarly that the youngest children showed the greatest test score improvement in achievement after transferring to upper income white schools.[22] In New Rochelle, only kindergarten children showed a significant gain when transferred from all-black to white schools.[23] An Ann Arbor study also found that transferred kindergarten pupils (minority-to-majority) showed the greatest I.Q. gains, but because of the small number, the researcher was unable to conclude that the gain was statistically significant.[24] Hartford's Project Concern reported test score gains for participating children in grades K-3; the first grade children were above grade level, but by the fourth grade, the difference between the scores of children in the suburban schools and children remaining in Hartford schools (80% black) had become less noticeable. By the fifth grade scores evened up.[25] In Sacramento, desegregated children in grades 1-4 surpassed their peers in reading and arithmetic scores. Still segregated fifth graders, however, "beat" desegregated children on the reading test; desegregated fifth graders came out ahead in arithmetic scores, but the margin was slimmer than it was for the younger children.[26] In Evanston, elementary school pupils apparently made small gains fol-

lowing desegregation, while eighth grade pupils did not, although other factors may have caused backsliding among older students.[27] Less data is available for analyzing the effects of desegregation on white scores, since many of the desegregation programs studied placed only a few black children in white schools, leaving its racial composition virtually unchanged; or the differences were insignificant.

children lends some support to a theory based on the effects of some stigma attached to a predominantly black school. If racial isolation, for example, produces a sense of inferiority, children probably acquire it early and find it difficult to shake. Disparate responses of younger and older children are inexplicable within the other theoretical frameworks.

Procedural Defects

This discussion of the research findings demonstrates what little basis supports beliefs about educational gains or losses resulting from busing. The crudity of the techniques is yet another reason for rejecting arguments based on social science research. First, the research usually defines educational attainment by ability or intelligence tests, a wavering and uncertain measure which varies over time for an individual, and for whole groups of children. Moreover, because it is so unclear what it is society really wants schools to do, there is no guarantee that tests measure the right things. At best, test scores provide a somewhat reliable and objective measure of a child's acquisition of specific, limited skills.

But this is not the only defect in the techniques. Some of it, such as the Coleman Report, is based on survey data. Yet, surveys do not "prove" causality. Moreover, where several factors are bound together in a statistical relationship, it is difficult to determine which relates to which. A variety of interpretations may also be extracted from the same data. The close associations of affluence, parental achievement, class status, good health, school quality, and higher test scores, for example, make it difficult to assess the impact of any isolated factor.

Both surveys and studies of actual integration efforts are further plagued by the absence of adequate comparison, or control groups. They are also extremely sensitive to the statistical procedures followed. Thus, in order to evaluate fully the conclusion made in the research, it would be necessary to re-examine data, procedures, statistical methods, and even arithmetic. The list of potential defects is long enough to obscure the results and make it foolhardy to put much faith in any single study or report.

Research as a Capricious Guide

Even if the research tools could be improved, and it would be possible to "prove" desegregation benefited one racial group at the expense of another (or benefited no one), it is nonetheless inappropriate to determine desegregation requirements on the basis of such proof. The fact is the Constitution requires desegregation as a remedy for past wrongful segregation.

Given the present state of the research, allowing it to guide basic desegregation decisions would require absurd results. The research suggests, for example, that it is most beneficial to desegregate younger children. To pursue this logically, without reference to moral standards, would lead governments to desegregate the early grades, but not the older children. The arbitrariness of this should be obvious. The research suggests even more absurd results. Some researchers believe they have detected a difference in male and female responses to integration. Based on her own, and a few other studies, Nancy St. John, for example, has observed a tendency for black boys to benefit more than black girls in recently desegregated schools.[28] If this analysis is followed, among blacks, boys, but not girls, would be assigned to schools with white pupils. (Since there is some evidence that white girls fare better than white boys following desegregation, one might also suggest placing them with black boys, while maintaining separate schools for the black girls and white boys.)

Pursuing the research as a guiding star leads into even thicker morasses. The EEOS data show a strong trend in southern metropolitan areas toward higher test scores for children in totally black schools; a similar, but weaker relationship exists in the rural South; in the North it is negligible.[29] If a rise in test scores were the only justification for desegregation, the metropolitan South should be exempted: black pupils would be placed in 100 percent black schools. Professor Armor, who examined a sample of black ninth graders, found upper ability males in the Northeast were more likely to plan for college if they attended desegregated schools, and the reverse in the Midwest.[30] This would suggest desegregation for black upper

ability males in the Northeast, but not for lower ability peers, or male black students elsewhere in the country. Moreover, it is likely that the groups which benefit will change from time to time. Allowing the evidence of educational benefit to guide desegregation policy leads inevitably to capricious results.

History as a Guide

To cite research findings as an argument for or against desegregation is to lose sight of the history of race relations in America and the fundamental legal and moral imperatives which compelled the Supreme Court to order desegregation. Even the most dispassionate recital of the history of race relations in the United States makes the point clear: the enslavement of black people was tolerated well into the first half of this country's history. Attempts to justify this lack of humanity extended even to the Supreme Court which, on reviewing the case of Dred Scott, a man classified as slave in one state and freeman in another, declared that black people were "of an inferior order, and altogether unfit to associate with the white race..."[31] and refused to extend the protection of the United States Constitution to black people. After a bloody civil war over the issue, the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments explicitly repudiated this outrageous principle. Yet, even after this, the nation acquiesced in the rapid growth of an officially sanctioned caste system. Black Americans were burdened with Jim Crow laws explicitly circumscribing their role in every conceivable aspect of human activity. Nothing was done to correct this situation until this century, when a new civil rights movement began attacking this humiliating and dehumanizing caste system.

Progress was slow. *Plessy v. Ferguson*,[32] a now infamous turn-of-the-century Supreme Court decision, haunted the schools. In *Plessy*, the Supreme Court decided that a state law requiring separate accommodations on railroads did not deny equal protection of the laws, or any other right created in the post-Civil War amendments. While the Court reasoned that laws requiring separation do not imply inferiority, Justice Harlan – in a dissent later hailed as the clearest and only justifiable analysis of the Constitution – noted that laws requiring separation of the races were basically "unfriendly." He regarded them as inimical to the rights guaranteed in the Constitution, particularly in the context in which they were written:

> Everyone knows that the statute in question had its origin in the purpose, not so much to exclude white persons from railroad cars occupied by blacks, as to exclude colored people from coaches occupied by or assigned to white persons.

In Harlan's view, the separation of the races was not done by mutual consent of the parties involved, but was required by the majority which saw the minority as inferior; the most scrupulous equality in the accommodations would never provide the equality among men required by the Constitution.

After *Plessy*, the Supreme Court became more responsive to the civil rights movement, but rights gained in court were limited nonetheless to narrow, specific situations.[33] Small gains towards equal educational opportunity were made in a series of cases from 1838 to 1950, in which the Supreme Court ordered the admission of black students to all-white graduate schools.[34] In 1954, however, most of the Jim Crow laws were still in effect in the South, where skin color could legally affect a man's birthplace, schooling, marriage, occupation and burial. Racial segregation (but not racial discrimination) was ended in only a few limited areas.

In education the "separate but equal" doctrine was still in force. Southern schools were segregated by law. Even colleges and universities which were opened to black applicants (because the Supreme Court found universities for "coloreds" were too poorly endowed) continued to practice another blatant and ridiculous form of segregation. A graduate student, for example, was placed alone in a separate section of the classroom, and surrounded by a rail. (Later he was simply assigned a separate row.) He was required to eat at a separate dining room table and to use a special library table. In 1856 *Dred Scott* belief still stalked the land: blacks were "unfit to associate with the white race." The Supreme Court rejected the separatist policy, but implicitly accepted the *Plessy* doctrine by examining the training available. (They found he required free discussion with fellow students.)[35]

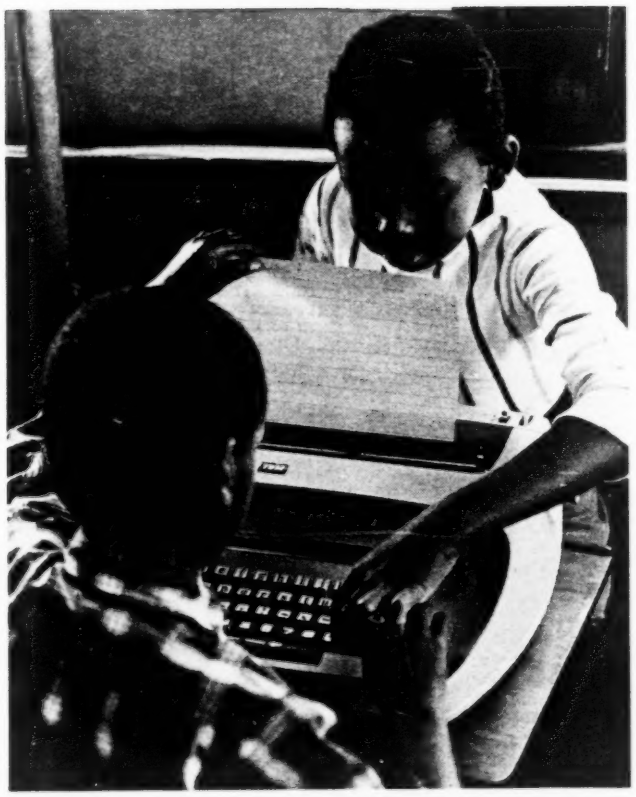


Photo by: Richard Berner

Legal Imperatives

The *Plessy* doctrine was at last rejected in *Brown v. Board of Education*, where the Supreme Court explicitly noted that the case should not turn on the equality of educational facilities. Instead, it found that education could never be equal so long as some children were required to attend separate schools:

> To separate [minority children] . . . from others of similar age and qualifications because of race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.[36]

Quoting at length from a lower court opinion, Justice Warren observed that:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.

The Court apparently replaced a test based on equality of resources (inputs) with one measuring educational effects (outputs). Yet, this language relating to vaguely defined educational results is hardly an invitation to allow desegregation decisions to turn on test scores. In the first place, the authority cited by the Court was mostly general and theoretical.[37] Second, immediately after deciding *Brown*, the Court invalidated segregated schools in Washington, D.C. without any reference to any educational effects. The Court found that segregation itself violated the due process clause of the Fifth Amendment:

> Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.[38]

Conceivably the Court was thinking of educational outcomes, but it appears more likely that *Bolling* represented a moral, rather than an educational, decision. Moreover, the Court did not have to choose between an educational or a moral theory, since both argued for the same result.

Where social scientists and moralists disagree, the issue becomes more clear. The EEOS survey, for example, suggests that children from lower-income families benefit educationally from exposure in school to substantial numbers of children of upper socioeconomic status. Because whites are richer than black families in many school districts, it is arguable that every school must have a majority of white pupils in order to maintain a middle class milieu, and hence, a better educational potential. This thesis was raised in *Brewer v. School Board*,[39] in testimony by Dr. Thomas Pettigrew of Harvard University. The Norfolk City School Board sought to keep white

students in 60 to 70 percent white schools. Since this would have left many other schools virtually all-black, the Fourth Circuit found the plan insufficient. The question reappeared in *Brunson v. Board of Trustees*,[40] where the white school population was less than 10 percent of the total. The school board sought to concentrate the whites in a predominantly white school, again citing the Pettigrew thesis, and arguing that there was no educational advantage in having schools which had more than 35 to 40 percent black students. The court again rejected this plan. In a separate opinion, Judge Sobeloff wrote a lucid and persuasive opinion explaining why a moral and not an educational decision must be made. Sobeloff reviewed *Dred Scott, Plessy* and *Brown* and concluded that:

> *Brown* articulated the truth that *Plessy* chose to disregard: that relegation of blacks to separate facilities represents a declaration by the state that they are inferior and not to be associated with.[41]

Observing that the scientific argument required a majority of whites at a school, Sobeloff retorted:

> This idea, then, is no more than a resurrection of the axiom of black inferiority as justification for separation of the races, and no less than a return to the spirit of *Dred Scott*. The inventors and proponents of this theory grossly misapprehend the philosophical basis for desegregation. It is not founded upon the concept that white children are a precious resource which should be fairly apportioned. It is not, as Pettigrew suggests, because black children will be improved by association with their betters. Certainly it is hoped that under integration members of each race will benefit from unfettered contact with their peers. But school segregation is forbidden simply because its perpetuation is a living insult to the black children and immeasurably taints the education they receive. This is the precise lesson of *Brown*. Were a court to adopt the Pettigrew rationale it would do explicitly what compulsory segregation laws did implicitly.

* * * *

This is no mere issue of expert testimony. It is no mere question of "sociology and educational theory." There have always been those who believed that segregation of the races in the schools was sound educational policy, but since *Brown* their reasoning has not been permitted to withstand the constitutional command. When the underpinnings of the white majority proposal are exposed, they seem to constitute a direct attack on the roots of the *Brown* decision. The minority's readiness even to entertain the idea reflects, I respectfully submit, a profound misunderstanding of the social and constitutional history of this nation and the Negro people.[42]

In short, the Constitutional argument is clear and logical. Where public officials have denied equal protection to a class of citizens, redress must be made. Where the wrongdoing took the form of school desegregation, the effects of this wrong must be eliminated and schools must be desegregated.

Spirit of the Constitution

The moral arguments should be equally clear, although the supporters of a Constitutional amendment apparently see it in another light. A response to these proposals is best grounded in morality and practicality rather than educational theory. A good example is that propounded by Representative William McCulloch, announcing his opposition to an anti-busing amendment:

> Never before to my knowledge have we amended the Constitution to change a practice which is itself only temporary. A social issue of such great controversy as this cannot be illuminated by statements of opposition to 'unnecessary' busing or busing to overcome racial imbalance. Such statements create the impression that Federal judges are arbitrarily ordering massive, crosstown busing without any justification other than the racial com-

position of a particular public school does not reflect the racial composition of the entire school system.

But the truth is that every court order operating today is predicated on a finding that the Constitution has been violated by agents of the state discriminating on the basis of race. In view of the facts, such statements are highly inflammatory and most irresponsible.[43]

His statement recognizes the apparently forgotten fact that this nation has not yet paid off past debts. The memory of the nation must be short indeed, if citizens can overlook these past wrongs so soon, when men live whose parents were chattels, and when people, who are yet young, can recall a childhood of forced attendance at schools labeled by state law as for "colored" only. The wrongs were serious. It takes time and inconvenience before those debts are paid.

FOOTNOTES

[Portions of this article are adapted from work done for the Report on the Massachusetts Racial Imbalance Act (February, 1972) under a contract between the Center for Law and Education and the Massachusetts Department of Education.]

[1] "White," as used here, refers to the HEW census term "other whites;" it excludes, for example, Spanish-speaking whites.

[2] U.S. Office of Education, *Equality of Educational Opportunity*, p. 29 (1965) [hereafter referred to as *Coleman Report*]. A summary and critique of the report and subsequent major reports on the EEOS data is found in R. O'Reilly, *Racial and Social Class Isolation in the Schools*, pp. 160-91 (Praeger, New York, 1970).

[3] C. Jencks, Memorandum to colleagues at the Center for Educational Policy Research, Harvard Graduate School of Education (Feb. 12, 1971).

[4] A review of these studies appears in N. St. John, *Desegregation and Minority Group Performance*, 40 R. of Educ. Research 111, 116-19 (1970). She reviews 12 pre-Coleman surveys, some of which attempted to follow black students for a period of years, and concludes that integration does have a positive effect, and that this might be attributed to factors which co-vary with integration.

M. Weinberg, *Desegregation Research: An Appraisal*, 44-82 (Phi Delta Kappa, Bloomington, Ind., 1970) reports over 30 formal studies which attempt to assess the effect of integration on pupil achievement. Most of the studies failed to control for socioeconomic or other factors, although a possibility existed that the high scoring black pupils were a select group.

In the few studies where some attempt was made to control selectivity factors, results were very mixed. A study of 1388 black ninth graders in Pittsburgh, for example, revealed a positive relation between arithmetic achievement and percentage of whites in the schools, after controlling for sex, and for individual and neighborhood socioeconomic status. N. St. John and M. Smith, "School Racial Composition, Aspiration and Achievement" (mimeograph, 1969). The Dumbarton Research Council, in a survey sample from Oakland, included children with comparable parental income, educational and occupational status. The researchers found that the high scoring blacks had significantly higher status if family size, stability, and home ownership, were taken into consideration. Dumbarton Research Council, "Race and Education in the City of Oakland" (unpublished draft, 1966), reported in Weinberg, pp. 44-56. The results of another survey were not even this encouraging. The researcher reported no relation between attendance at an integrated school and black pupil achievement. R. Klein, "A Comparative Study of the Academic Achievement of Negro 10th Grade High Schools in Metropolitan Areas of the South" (doctoral dissertation, Univ. of So. Car., 1967), reported in Weinberg, pp. 70-71. See also D. Long, "Educational Performance in Integrated and Segregated Elementary Schools" (doctoral dissertation, Yeshiva Univ., 1968), reported in Weinberg, pp. 73-74.

[5] These reviews are described in footnotes 4 and 2.

[6] Of the 14 studies reported in O'Reilly, for example, only one reported *no* significant differences between integrated and nonintegrated students at any grade level. This one imposed the strictest controls for socioeconomic status and school quality. Students in grades K-2 were matched for intelligence and social class and attendance at schools with comparable facilities, personnel and programs. D. Long, "Educational Performance in Integrated and Segregated Elementary Schools" (doctoral dissertation, Yeshiva Univ., 1968), reported in *Dissertation Abstracts* 412 (1968).

[7] P. Carrigan, "School Desegregation via Compulsory Pupil Transfer: Early Effects on Elementary School Children" (Report for the U.S. Office of Education, Bureau of Research, Sept. 1969). The transfer group (all the children from a segregated school which was closed) included 132 blacks, 31 whites and two other minority pupils. At the end of the first year 34 pupils had been lost from the group [p. 22]. The non-transferring group attended a school which was 48 percent black, and therefore comparisons are not of highly segregated *versus* integrated pupils [p. 23]. Moreover, the non-transferring children may have received more supportive services than the transferring group.

Some significant gains were made for the following black pupils: fourth grade non-transferring boys, third grade transferring and non-transferring girls, and fifth grade transferring and non-transferring girls. However, significant gains were also made by non-transferring and receiving white pupils in these same grades [pp. 101-05].

[8] I. Hendrick, "The Development of a School Integration Plan in Riverside, California: A History and Perspective," pp. 34-40 (published by the Riverside Unified School District and the Univ. of Calif., Riverside, 1969); H. Singer, "Effect of Integration on Achievement of Anglos, Blacks and Mexican-Americans," (University of California, Riverside, mimeograph, Mar. 1970); M. Purl, "The Achievement of Elementary Pupils in Integrated Schools, Riverside Unified School District," (Mimeographs, March 1970 and 1971, reading scores only); "Construction and Interpretation of the Achievement Study Baseline, Riverside School Study, A Progress Report," pp. 71, 106 (published by the Riverside Unified School District and the University of California, Riverside, Aug. 31, 1967).

[9] P. Prichard, *Effects of Desegregation on Student Success in the Chapel Hill City School*, Integrated Education, Vol. 7, No. 6, p. 33 (Nov.-Dec. 1969).

[10] Jayjia Hsia, "Integration in Evanston, 1967-71: A Longitudinal Evaluation," (Educational Testing Service, Evanston, Ill., Aug. 1970).

[11] E. Morrison, "A Summary of the Assessments of the District's Integration Program," (Research Report No. 9, Sept. 28, 1971); *Boston Globe*, Sept. 23, 1971, p. 5, col. 4; *National Observer*, Oct. 2, 1971, p. 6, col. 1.

[12] *New York Times*, Oct. 18, 1970, p. 1, col. 4.

[13] A 1962 survey of 3,418 school districts of over 2,500 in population reported that 77% of the elementary schools and 90.5% of the high schools were ability grouped to some degree. National Education Association, Research Division, *Ability Grouping* (Research Memo 1962-29, Washington, D.C., 1962). Most of those who reported no ability grouping were planning to institute grouping in the future. See also, Cohen, Pettigrew and Riley, "Race and Outcomes of Schooling," in Mosteller and Moynihan, eds., *On Equality of Educational Opportunity*, (Random House, 1971), p. 355. Based on EEOS data, they reported that among secondary schools surveyed 89.9% at Grade twelve and 91.3% at Grade nine practiced some form of ability grouping.

[14] H. Gerard, "Factors Contributing to Adjustment and Achievement," (Progress Report 15-16, Dept. of Psychology, U. of C. at Los Angeles, mimeograph, May 1969).

[15] T. Mahan, Jr., "Project Concern, 1966-69: A Report on the Effectiveness of Suburban School Placement for Inner City Youth," (Conn. Dept. of Educ., Aug. 1968); T. Crane, "A Three Year Summary of Hartford Project Concern," (Conn. Dept. of Education, Oct. 1970).

[16] *Coleman Report* 29, 32 (Table 22), 331.

[17] N. St. John and R. Lewis, "The Influence of School Integration on Academic Achievement," (mimeograph, Harvard Univ., Apr. 1971).

[18] N. St. John and M. Smith, "School Racial Experience, Achievement and Aspiration," (draft mimeograph, 1970).

[19] I. Samuels, "Desegregated Education and Differences in Academic Achievement," (Ph.D. thesis, Ind. Univ., 1968).

[20] J. Lockwood, "An Examination of Scholastic Achievement, Attitudes and Home-Background Factors of Sixth-Grade Negro Students in Balanced and Unbalanced Schools," (Ph.D. thesis, Univ. of Mich., 1966) pp. 47, 50.

[21] L. Anderson, "The Effects of Desegregation on the Achievement and Personality Patterns of Negro Children," (Ph.D. thesis, George Peabody College for Teachers, 1966), pp. 69, 85.

[22] Denmark, Guttetag and Riley, "Communication Patterns in Integrated Classrooms and Pre-Integration Subject Variables as They Affect the Academic Achievement and Self-Concept of Previously Segregated Children," (Aug. 1967), reported in Weinberg, p. 75.

[23] T.G. Wolman, *Learning Effects of Integration in New Rochelle*, Integrated Education, Vol. 2, No. 6, p. 31 (Dec.-Jan. 1965).

[24] P. Carrigan, "School Desegregation via Compulsory Pupil Transfer: Early Effects on Elementary School Children," (Report to U.S. Office of Education, Bureau of Research, Sept. 1967) pp. 101-08.

[25] T. Mahan, Jr., "Project Concern, 1966-69: A Report on the Effectiveness of Suburban School Placement for Inner City Youth," (Conn. Board of Education, Aug. 1968).

[26] *Boston Globe*, Sept. 23, 1971, p. 5, col. 4; *National Observer*, Oct. 2, 1971, p. 6, col. 1.

[27] Jayjia Hsia, "Integration in Evanston, 1967-71; A Longitudinal Evaluation," (Educational Testing Service, Evanston, Ill., Aug. 1970) pp. 38-40.

[28] N. St. John, "The Effects of School Segregation and Desegregation on Children," (draft, 1971) p. B-15.

[29] *Coleman Report*, p. 31 (Table 21), 331. See also D. Armor, "School and Family Effects on Black and White Achievement: A Re-examination of the USOE Data," (mimeograph, June 1969) p. 49.

[30] D. Armor, "The Racial Composition of Schools and College Aspirations of Negro Students," (U.S. Civil Rights Commission, 1967) p. 145.

[31] *Dred Scott v. Sanford*, 19 How. 393 (1856).

[32] *Plessy v. Ferguson*, 163 U.S. 537 (1896).

[33] The most important were probably the voting rights cases. In 1915, the Supreme Court held that a state may not deny the vote to citizens simply because their ancestors were not entitled to vote, and that a state may not require literacy tests for newly registered voters. *Guinn v. United States*, 238 U.S. 347 (1915). Throughout 1927 to 1953 the Supreme Court reaffirmed the right of blacks to vote in party primaries. *Nixon v. Herndon*, 273 U.S. 536 (1927); *Nixon v. Condon*, 286 U.S. 73 (1932); *Smith v. Allwright*, 321 U.S. 649 (1944); *Terry v. Adams*, 345 U.S. 461 (1953). Other cases in which blacks gained rights through the courts related to restrictive covenants, *Shelly v. Kraemer*, 334 U.S. 1 (1948), jury selection, *Norris v. Alabama*, 294 U.S. 587 (1934), and fair trial rights, *Moore v. Dempsey*, 261 U.S. 86 (1923).

[34] *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938); *Sipuel v. Board of Regents*, 332 U.S. 631 (1948); *Sweatt v. Painter*, 339 U.S. 629 (1950).

[35] *McLaurin v. Oklahoma Regents*, 339 U.S. 637 (1950).

[36] *Brown v. Board of Education*, 347 U.S. 483, 494 (1954).

[37] 347 U.S. at 494, n. 11.

[38] *Bolling v. Sharpe*, 347 U.S. 497, 500 (1954).

[39] *Brewer v. School Board*, 434 F.2d 408 (4th Cir. 1970).

[40] *Brunson v. Board of Trustees*, 429 F.2d 820 (4th Cir. 1970). Dr. Pettigrew's *Brewer* testimony is summarized at 429 F.2d 831, n. 1 (dissenting opinion).

[41] *Id.* at 825 (concurring opinion).

[42] *Id.* at 824, 826.

[43] *New York Times*, Feb. 29, 1972, p. 18, col. 3.

Integration : A No Win Policy For Blacks?

by Derrick A. Bell, Jr.

Well, son, I'll tell you:
Life for me ain't been no crystal stair.
It's had tacks in it,
And splinters,
And boards torn up,
And places with no carpet on the floor—
Bare . . .

Langston Hughes[1]

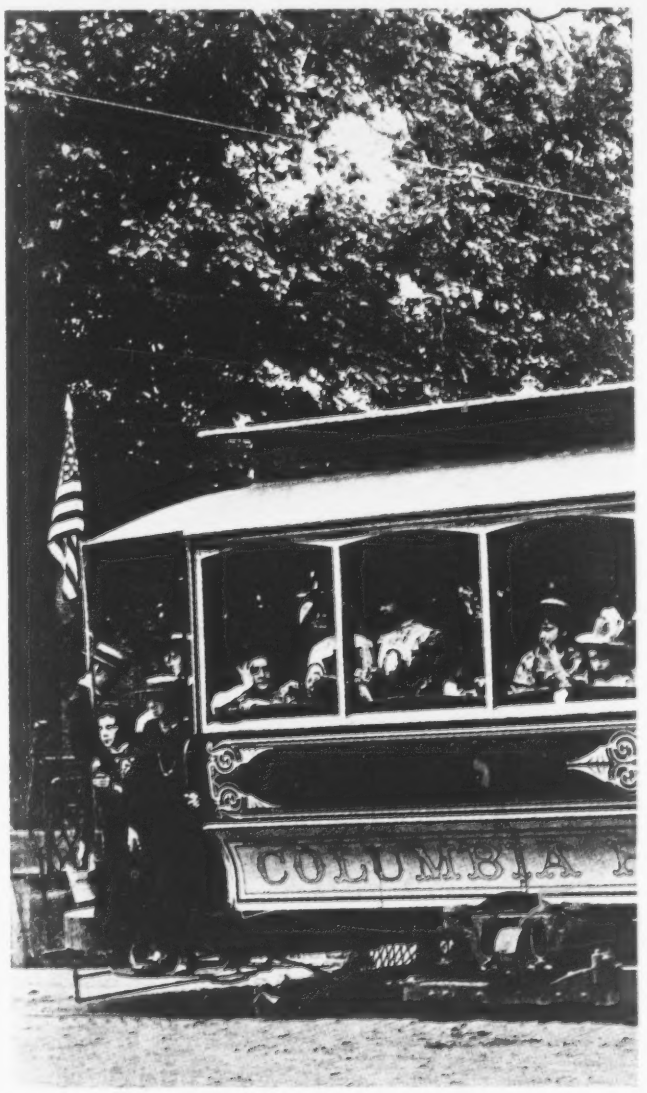
The opening lines of Hughes' famous poem, "Mother to Son," convey a sense of the deep weariness that people concerned about quality schooling for black children feel when they read, almost two decades after *Brown v. Board of education*[2] that while two-thirds of the American public approves of desegregated public schools, 69 percent opposes busing as a means of achieving them.[3]

These seemingly contradictory findings pose less a paradox than a problem. Despite growing racial isolation in housing patterns, which makes school desegregation impossible without busing, there is no paradox in the survey conclusions. They reflect still another manifestation of the traditional pattern of white America's racial behavior, expressed in the formula of a public posture of democratic ideals combined with actual racial policies that maintain blacks in a subordinate and oppressed status.

This phenomenon is not limited to the schools, but there is perhaps no other area in which it is more apparent, or where it has more consistently frustrated black parents' hopes of obtaining for their children what has been called, since the *Brown* decision, an "equal educational opportunity."[4]

History Recalled

It provides some perspective, if little comfort, to recall that white resistance to integrated schools did not begin in 1954, but 175 years earlier. In 1787, the Massachusetts legislature, which was then establishing the first public schools to educate the poor, ignored a petition seeking schools for black children.[5] A century later, in 1899, the SupremeCourt refused to honor the "equal" portion of its three-year-old *Plessy v. Ferguson*[6] "separate but equal" doctrine: it upheld a Georgia school board's decision to close its black high school, while continuing to offer a high school education to white students.[7] The Court later affirmed "separateness" by approving a Kentucky statute which forbid a private school from operating on an integrated basis.[8] Both decisions asserted concern for the educational welfare of black children.



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Throughout the nineteenth century, black parents filed dozens of lawsuits seeking to obtain public schooling for their children. Later they petitioned, litigated and protested to equalize or integrate their local schools.[9] The suits to provide schools for blacks where none existed were often successful; those seeking integration usually were not.[10]

By the start of World War II, nearly half the states still required or permitted segregation in their public schools.[11] That these schools were inferior as well as separate is a truth that blacks knew well, but which the Supreme Court did not acknowledge fully until 1954.[12] Nor did confession lead to immediate penitence. Resistance took new forms. Racist passwords evolved from "never," to "freedom-of-choice," to "neighborhood schools" and "busing," but the basic unwillingness to accept black children into public schools designated for whites (officially or unofficially) remains.

Judicial Firmness Today

If there is little solace in history, some reassurance may be gained from the judiciary's present firmness, for opposition to school desegregation is in reaction to federal court orders requiring just that. Despite its new personnel chosen to reflect the President's conservative view, the Supreme Court (albeit with some wavering)[13] has protected and enhanced the Warren Court legacy from *Brown*. Lower federal courts, under the prodding of civil rights lawyers, have enjoined one evasive scheme after another in a slow but steady flow of decisions requiring redrawing of school zone lines and busing to integrate school systems in compliance with *Swann*.[14] Some courts, realizing the need to balance the burden of school desegregation, have prevented districts from closing formerly black schools where these facilities could be used in an integrated system.[15] Others have voided policies that would make school assignments on the basis of standardized achievement tests.[16] Formerly white schools have been required to discard "Dixie" and confederate flags as schools symbols.[17] arbitrary expulsions and suspensions of black students have been challenged successfully,[18] and summary dismissals of black teachers have been reversed.[19] In a decision of far-reaching implications, a federal district judge (as anticipated by Judge Skelly Wright in *Hobson v. Hansen*[20]) has sought to neutralize white flight to the suburbs by ordering the consolidation of the Richmond, Virginia school district with those of two adjoining counties.[21] This case is on appeal and will likely reach the Supreme Court next year. The support it has generated for anti-busing forces is apparent. Scores of Northern cities have also been ordered to desegregate their schools,[22] even though the Supreme Court has avoided ruling on the oft-presented question of whether *Brown* applies where no formal dual school system exists.[23]

Constitutional Tampering

These decisions have aroused passions in the North, where school desegregation was believed to be a "Southern problem." They have also brought renewed hope to a South almost defeated in its decades-long effort to avoid compliance with *Brown*. Now, with nationwide support and election-year fears as a vehicle, opponents of integration seek a constitutional amendment, nominally aimed at "forced busing," which could repeal the principle of the fourteenth amendment upon which most black claims to equality in education are based.[24]

This threat, coming at the end of two decades of often turbulent racial crisis, should be preposterous. But Rutherford B. Hayes (another Republican) secured the presidency a hundred years ago (in 1876) by promising Democrats that he would remove federal troops from the South, thereby insuring that the bloody disenfranchisement of blacks — already well underway — could be completed without federal interference.[25] Much has changed since 1877, but the white racism that underlay the betrayal of black hopes a century ago is all too evident in the public hysteria and political posturing around the busing issue today.

The danger is real. Continued pressure for school integration not only risks the progress made in this area during the last two decades, it also threatens precarious black gains in employment, voting, housing, and other major areas.

Schoolhouse Results

Is the risk worth it? If we were to base our answer solely on improvement in the quality of education obtained by black children, the question would be close, with increasing numbers of black parents and children answering a resounding "No." Whatever the difficulties of desegregating public

schools, they hardly compare to the hardships endured by black students who have actually obtained "their rights." The physical, mental and emotional abuse heaped on black children enrolled in desegregated schools may have begun, but certainly did not end, with the Little Rock Nine.

Black children are harrassed unmercifully by white students, are suspended or expelled by white teachers for little or no cause (when they are not simply ignored), are taunted and insulted, segregated within classes, excluded from extracurricular activities, shunted off into useless courses, and daily faced with a battleground of racial hostility, beyond the ability or willingness of courts to rectify. None of this bares the least resemblance to "equal educational opportunity."[26]

Not surprisingly, the educational achievement level of black children attending these desegregated schools has not improved noticeably, and even in settings like Berkeley which are held out as models of school integration, black achievement levels have been disappointing.[27]

Considering the racial crisis it has caused, black gains in other areas it has endangered, the lack of real educational advantage to blacks required to go to school with hostile whites, there is an overwhelming temptation – not to quit – but to alter strategy, to seek perhaps a compromise on "forced busing," to accept the reality of all black schools and trade away the possibility of integration in return for additional funds. Perhaps they might enable schools to do now what they were unable to do during "separate but equal" days: effectively serve the educational needs of black children.[28]

It was, after all, not simply to go to school with white children that the desegregation cases were brought.It was because black parents and lawyers knew from bitter experience with "separate but equal" schools that their children could only hope to obtain the same quality education that white children received by attending white schools.

While schooling received by blacks today is far from perfect, it is far better than it was in 1954. Should we not consolidate our gains rather than risk the election year passage of statutes, or even a constitutional amendment, that might erase them? Should blacks not compromise on school integration while whites seem so anxious to spend substantial sums of money as "educational ransom" for their children?

At least two factors must be discussed before an answer can be given: (1) Are racially-mixed schools the basis for white resistance? (2) Are there alternatives to school integration that offer black children a brighter hope of quality education?

The first question is easy enough to answer. White resistance to integrated schools is the same as white resistance to fair employment opportunities for blacks, or to black representation on school boards or jury panels, or black residents in the house next door. The principle is supported, but the practice is avoided and, when necessary, opposed. The North favored school desegregation as long as it occurred in the South. Decent housing for blacks is a worthwhile goal, except in the suburbs where its presence may threaten the affluent white environment. The examples are endless. The message is the same.

The relatively inferior social, economic, or political status of blacks in this country did not happen by accident. It was dictated and enforced by the relative advantage it provided to whites. The status of blacks cannot be upgraded substantially without threatening and sometimes causing whites to surrender their superior social, economic, and political status. Most whites are simply unwilling to make or even risk making what they deem an unfair sacrifice. This unwillingness, expressed in overt or institutional actions tending to perpetuate the subjugation of blacks, is what is defined as "racism." It is this characteristic of American racial behavior which gives continued validity to Reinhold Niebuhr's statement of 32 years ago:

> It is hopeless for the Negro to expect complete emancipation from the menial social and economic position into which the white man has forced him, merely by trusting in the moral sense of the white race . . . However large the number of individual white men who do and who will identify themselves completely with the Negro cause, the white race in America will not admit the Negro to equal rights if it is not forced to do so. Upon that point one may speak with a dogmatism which all history justifies.[29]

Historic Precedent

Blacks have long known that whites were not going to eliminate racial bias because of their

"moral sense," but the history Niebuhr refers to is instructive as to the dangers of attempted compromise on "busing," or on any aspect of full equality for blacks.

By the 1890's, blacks had lost most of their Reconstruction rights. They had been stripped of their voting power, most were in dire economic straits, the federal civil rights statutes had been voided or negated by non-enforcement, and with federal troops withdrawn, they were at the mercy of "Southern Justice."

One black leader sought to gain some benefit out of what he viewed as unchangeable political realities. Booker T. Washington in his famous "Atlanta Compromise" speech in 1895 called for black men to stop seeking social equality with whites. "Cast down your buckets where you are," he urged. "In all things that are purely social," Washington said, "we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress." "The wisest among my race," he continued, "understand that the agitation of questions of social equality is the extremest folly, and that progress in the employment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing."[30]

When Washington finished, the audience went wild with glee. They were on their feet yelling. Waves and waves of applause dashed against the building. But blacks in the audience are reported to have wept.[31]

Scholars tell us that Washington hoped to gain support for education, economic development and a curbing of killings and maiming of blacks in return for renunciation of social and political equality. As we know, he obtained none of these. Lynchings and murders reached new heights. Segregation and discrimination increased. The effort to compromise was interpreted by whites as an open invitation to further aggression.[32] Perhaps coincidentally, the Supreme Court issued its *Plessy v. Ferguson* decision the next year.

I thought of the Washington speech while reading of a black man who spoke recently at a national anti-busing conference in Detroit. The report described him as the "star" of the meeting. He stated his opposition to busing and complained to the group: "I'm being used by white Federal judges. Some people don't understand that the hearts of black mothers and fathers bleed, too." He was given a standing ovation, punctuated by yells of "Right On!"[33] The story is sad. Reading it, one understands why sensitive black men who witnessed the Booker T. Washington speech might weep.

The conclusion is clear. If blacks cease their pursuit of integrated schools, it must be in favor of a more viable educational alternative, not in the expectation that whites will reward the surrender with concessions they are not forced to make.

Whether or not on the basis of compromise, any abandonment of school desegregation assumes the availability of a more attractive alternative. Although there are alternatives, experience has shown that initial hopes for some of them were too optimistic.

Compensatory Education

A few years ago, compensatory education programs were expected to become suitable substitutes to integration, particularly in large urban areas where meaningful integration would have been difficult even without the massive opposition that developed. The plans call for special programs in ghetto schools, extra teachers, the latest teaching aids, and committing additional resources to target schools.

Some of these programs have been financed under Title I of the Elementary and Secondary Education Act of 1965,[34] but serious problems have occurred with the administration of this Act. Civil Rights groups have charged incompetent and corrupt administration of Title I funds resulting in misuse, waste, and diversion of a substantial percentage of the billions of dollars appropriated under the Act.[35] There is also evidence that school systems have not, as the Act intended, supplemented target schools already receiving an equal share of state funds. Rather, they have used Title I money to reduce the disparity that existed between have and have-not schools. Money has often been spent to spruce-up black schools to discourage integration, rather than improve the education being provided.[36]

But even if efficient and honest administration of the program could be effected, there is serious doubt that enough money would be provided to insure the sustained effectiveness of compensatory education programs.[37] A society willing to deny black children a decent education in order to preserve segregation is not likely to spend three or four times as much on black children's education as on whites, even if this kept black children out of

white schools.

Tuition Grants

A similar problem threatens the future of tuition grants. A few years ago educators were excited by the possibility that the quality of education provided the poor could be improved by stimulating competition between existing public schools and private schools.[38] Parents would receive "tuition vouchers" which could be cashed at the school where they enrolled their child. Parents would become education "buyers," and schools would theoretically become more sensitive to satisfying the educational needs of the children enrolled.

For this plan to work, poor parents must receive a substantially larger grant than well-to-do parents to entice schools to undertake the more difficult educational challenge presented by the ghetto child, and to offset the more affluent parent's ability to supplement his grant. A program providing larger grants for poor children would be difficult to enact for political reasons. A program providing equal grants for all would invite middle-class parents to supplement their grants with private funds and set up superior schools that would perpetuate present inequalities.

Equalized School Funding

For years, educators have been urging state legislatures to eliminate funding disparities between school districts by amending school funding formulas that discriminate against poor districts.[39] After a shaky start in the courts,[40] a number of decisions have invalidated several plans and required state legislatures to restructure funding laws to avoid discrimination based on district wealth.[41]

Even with the successes obtained thus far, however, litigation is expected to drag on for years. Implementation will require more years of legislative debate, manipulation, circumvention, and delay. Ghetto schools are likely to need more than equal dollars even to approach the quality of suburban schools, but no court has yet recognized a legal right to such an entitlement. Nor are richer districts likely, in the scramble to arrange a new school funding system, to give up their superior ability to exercise political muscle with the legislature.

Finally, there is little proof that school inputs (dollars) have much relation to school outputs (student achievement), nor are there clear standards for defining, much less measuring, "achievement."[42] School funding reform is needed and appears on the way, but it is not a suitable substitute for school integration for insuring a better education for black children.

Community Control

As white resistance to integration persisted, many black parents and leaders who never enthusiastically embraced the idea of sending their children to white schools, changed strategy and sought decentralization and increased local control over the public schools as a means of obtaining equal educational opportunity for their children. Spokesmen for this movement believe that black communities would elect school boards genuinely concerned about their responsibilities, and that these boards would hire administrators and teachers who would create atmospheres of mutual respect and pride in which learning could take place. Emphasizing black history, art and culture, teachers selected for their sensitivity to the special needs of black children would build pride and counteract the low self-esteem that saps black student achievement.[43]

Some experiments in community control have returned impressive results.[44] But the obstacles are overwhelming. In addition to the challenges of efficiently administering such a project, gaining parental support, hiring effective teachers, and securing adequate financing, there is the serious (some would say fanatical) opposition of teachers unions and other groups with strong vested interests in the educational status quo. Mere mention of the New York P.S. 201 and Ocean Hill-Brownsville experiments suffice to make this point.[45]

Because community control projects seem to represent a voluntary return to "separate but equal" education, they are likely to receive little assistance from the courts, including those most unwilling to require the elimination of *de facto* school segregation.[46] Judicial resistance to any change in racial policy that retards school desegregation may prove a barrier to blacks seeking control over ghetto schools.

Moreover, community control seems more a result than a program, a means of describing a status already achieved rather than a means of acquiring it. The essence of community control is the parental sense that they can and are influ-

encing policy making in their children's schools. Parents in highly regarded suburban school communities have this sense, and teachers and administrators in those schools realize that their job success depends on satisfying the parents whose children are enrolled in the school rather than the school board or the teacher union. Achieving this parental outlook in urban ghetto areas, where parents lack the sense of power that education and socioeconomic status provide their suburban counterparts, will be extremely difficult, even in the growing number of urban areas where the percentage of black residents is steadily rising.

Free Schools

The real pioneers in the community control movement have given up on public schools entirely. In recent years they have established small private schools in ghetto areas.[47] Moving these schools from idea to reality requires great dedication. Sponsors must overcome myriad problems including state and local educational requirements, health and safety standards, teacher certifications and, of course, ongoing financial support. Many of these projects have nonetheless moved beyond the experimental stage and achieved impressive academic success. Perhaps significantly, many of these schools begun deep in black communities for black children have waiting lists of white children whose parents are more than willing to pay to have their children share in the innovative, integrated educational programs that often characterize free schools.

Again, however, almost by definition, free schools are small and require a degree of commitment, competence and courage difficult to mass produce for the millions of black children whose schooling continues to reflect a separate and highly unequal character.

Limited Alternatives

These are the major alternatives to integrated public schools for black children. How viable are they now that growing numbers of blacks are expressing their disenchantment with integrated schools and seeking means to provide quality in separate, black schools?[48]

For relatively small numbers of black children, alternatives to integrated public schools exist which are available and quite attractive. None of them, however, are attainable by the masses of blacks. Indeed, functioning alternative programs often owe some of the credit for their existence to pressure for school desegregation.

Why Integration?

Clearly the mixing of black and white children in a school does not guarantee a quality education for either racial group; in some situations, the degree of racial hostility renders even the suggestion a farce. But, if integration is not a guarantee of quality education, what is it?

The short answer is that the right to an integrated education makes possible a legal and political climate in which the potential for quality education for black children can exist and grow. This potential is not lessened and may increase in the face of white opposition and hostility.

This is not to say that we should not be concerned about the racial fears, violence, and harassment that frequently mar public school integration efforts. But it would be a surprise if these schools did not mirror the racial antagonism of their communities. Sociologist Nathan Glazer suggests in a recent article that racial clashes among students in integrated schools, and the tendency of black and white students to remain separated in non-classroom activity, are indications that school integration has failed or is not worth pursuing.[49]

While school officials must do more to cope with racial harassment, and while courts could certainly be more explicit about this responsibility when writing integration orders,[50] it is not necessary that blacks and whites attending integrated schools love one another, or even get along very well. Given the status of race relations in our society, this would take a miracle. Indeed, it is little short of miraculous that there are as many interracial friendships as exist, to say nothing of the presence of a few of the greatly feared interracial romances.[51]

What Education Is

Education is more than achievement scores on standardized tests. Education should prepare students for living. In integrated schools, whatever the *academic* value of blacks learning with whites or vise versa, the two groups are forced to cope with the problems of racial hostility and ignorance which have been imposed on them by the society in which they will soon take their places. It may not even be too extreme to say that, to the extent education lacks racial conflict, it is insufficient

preparation for living in America as it is and as it is likely to be for a long time.

The damage that can be done to children in these encounters, particularly black children who cannot flee to the suburbs, should not be underestimated.[52] Often, for example, the harm resulting from suspension or expulsion for some racial indiscretion – real or imagined – is permanent. But is this risk any worse than that experienced by black students over many years in segregated institutions administered by men like Dr. Bledsoe, the classic example portrayed in Ralph Ellison's novel, *Invisible Man*?[53]

Honest men who experienced the dictatorial atmosphere that so frequently pervaded old segregated schools and colleges will agree that life, even in a hostile integrated school, cannot be worse. In fact, conflict in desegregated schools may serve as a catalyst for student growth and racial maturity. This growth is not measured by standardized achievement tests and it does not make the wire services, but it can be a crucial educational experience for students, black or white, who will all too soon inherit society's racial problems.

South Carolina Reconciliation

A black school board member in South Carolina recently reported an experience at a formerly all-black high school, which was experiencing racial distrust and resentment after desegregation orders produced a 50-50 racial balance in two years. His report of an open student forum is quoted at length:

> The principal opened the meeting with a few well-chosen words about *getting along*. He told them all very bluntly that the time was past for arguing the whys and wherefores of school attendance lines, government regulations, busing, and the rest of it. The job now was to get on with the business of education – to learn to live with the situation as it was.
>
> Again, like prizefighters, the students began to feel each other out. Members of the bi-racial committee brought out some of the sore points on both sides, and the students began to say what they felt – many of them for the first time.
>
> A tall, young black boy said, "The whites act like they're too good to accociate with us."
>
> A small, earnest white girl said, "I'm actually afraid to pass by a group of black boys in the hall. I don't want to be, but I am."
>
> A sullen white boy with long hair said, "Why should we take part in anything at this school? The government is making us come here against our will."
>
> An equally sullen black girl said, "I remember the things I had to put up with when I went to a predominately white school, and I'm not going to make a big deal out of being nice to them when they're in my territory."
>
> And so it went. Tension was there, and it could have been explosive except for two things: the Principal is a tough-minded man who managed to keep down any uproars that got started, and the other thing was that I began to feel that the children themselves didn't want any trouble to happen.
>
> Almost as it was building, the tension seemed to be easing – as if the children realized that the things they were thinking, the prejudices and fears they had lived with all of their lives, sounded hollow when said out loud.
>
> Then it happened. A white boy about halfway back stood up and complained, "How can we get along with the black kids when we don't know them? They stay to themselves! You always see them at lunch or recess standing together in groups."
>
> A black child jumped up and said, "Well, man, you whites act like we're going to jump on you with a knife every time we start to say something."
>
> The white boy said, "Well, how do you expect us to act? You stay together in groups and talk and laugh, and the only way we could join in would be to walk up and join the group. I'd feel funny being the only white in a big group of black kids."
>
> Then down in front where at

41

least 50 or 60 black children were sitting, a little tiny white girl stood up and turned to the boy and said, "Here *I* am, and I don't feel funny. If I can sit down here with my friends, why can't you?"

And somewhere else, a black child stood up to show she was sitting with a group of whites.

Of course, there was a lot of applause and excitement throughout the auditorium; and the first thing you knew, the white boy and his girl friend moved from their seats and came down front to sit with some of the black children. That started the ball rolling, and all over the room black children and white children were shifting to sit with each other. Introducing themselves. Sharing the one excitement of a new experience as only young people can.

A small thing. But when you think about the hundreds of years of distrust that have driven people apart, it doesn't seem small at all. White kids and black kids beginning to think of each other as *individuals* rather than as members of an opposing group.[54]

Conclusion

The beginning of this article recalled that opposition to school desegregation is neither new nor novel. Because of its pathological components, it is likely to continue. Because white resistance to integrated schools is symbolic – and represents the core of the philosophy that America is a white man's country – it must be fought even by blacks who are convinced that the educational merits of integrated schools are overstated, misconceived, or simply nonexistent. The right of black children to attend integrated public schools – quite literally whether exercised or not – is a right that is crucial not only to black success, but to black survival in this country.

Anyone doubting this need only re-read the constitutional amendment supposedly designed to curb "forced busing." With so much at stake, we cannot afford to surrender, and dare not risk compromise. Our efforts may or may not be successful, but fighting for survival is never a "no-win" policy. It is much more a "for better or worse" situation in which, for all our weariness and frustration, we can only, as the current expression goes, "keep on-keeping on." But Langston Hughes said it better when he concluded his "Mother to Son" poem, capturing in his lines what is the apparent heritage and inheritance of black men in America:

So boy, don't you turn back,
Don't you set down on the steps
'Cause you finds it's kinder hard.
Don't you fall now –
For I'se still goin, honey,
I'se still climbin',
And life for me ain't been no crystal stair.

Photo by: The Barton-Gillet Co.

FOOTNOTES

*This article was prepared for the "National Policy Conference on Education for Blacks" sponsored by the Congressional Black Caucus, in Washington, D.C. March 29 - April 1, 1972.

[1] A. Bontemps, ed., *American Negro Poetry*, p. 67 (1963).

[2] 347 U.S. 483 (1954).

[3] *Newsweek*, Mar. 13, 1972, p. 24.

[4] 347 U.S. at 493.

[5] H. Aptheker, *A Documentary History of the Negro People in the United States*, pp. 19-20 (Citadel ed. 1968). Subsequent efforts are reviewed in L. Litwack, *North of Slavery*, pp. 113-52 (Phoenix ed. 1961). Early efforts to educate slaves and free blacks in the South are traced in C. Woodson, *The Education of the Negro Prior to 1861* (1919).

[6] 163 U.S. 537 (1896).

[7] *Cumming v. Board of Educ.*, 175 U.S. 528 (1899).

[8] *Berea College v. Kentucky*, 211 U.S. 26 (1908).

[9] See cases collected in Bell, *School Litigation Strategies for the 1970's*, 1970 Wis. L. Rev. 257, 259, n.9.

[10] The most famous of these was *Roberts v. City of Boston*, 59 Mass. (5 Cush.) 198 (1850), where the court refused arguments for school integration quite similar to those adopted a century later by the Supreme Court in *Brown*. Earlier, the Supreme Court cited *Roberts* as a basis for its decision in *Plessy v. Ferguson*, 163 U.S. 537, 544 (1896). Five years after *Roberts*, however, the campaign to end segregated schools in Massachusetts (of which *Roberts* was a part) succeeded in obtaining a state law to this end. See J. Daniels, *In Freedom's Birthplace*, pp. 446-49 (Johnson ed. 1968).

[11] R. Bardolph, ed. *The Civil Rights Record*, p. 210 (1970).

[12] In the decades following *Plessy*, at least 60 factors of disparity were litigated including physical facilities and equipment, number and qualifications of teachers, richness of curriculum and teacher's salaries. See Larson, *The New Law of Race Relations*, 1969 Wis. L. Rev. 470, 482-83.

[13] See Chief Justice Burger's effort to limit the scope of *Swann v. Charlotte Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971), while denying a stay in *Winston-Salem Bd. of Educ. v. Scott*, (U.S. Aug. 31, 1971).

[14] 402 U.S. 1 (1971).

[15] *Gordon v. Jefferson Davis Parish Sch. Bd.*, 446 F.2d 266 (5th Cir. 1971); *Bell v. West Point Munic. Sep. Sch. Dist.*, 446 F.2d 1362 (5th Cir. 1971); *Lee v. Macon Co. Bd. of Educ.*, 448 F.2d 746 (5th Cir. 1971); *U.S. v. Bd. of Educ. of Clayton County*, 331 F. Supp. 446 (N.D. Ga. 1971).

[16] *Moses v. Washington Parish Sch. Bd.*, 330 F. Supp. 1340 (E.D. La. 1971).

[17] *Smith v. St. Tammany Parish Sch. Bd.*, 448 F.2d 414 (5th Cir. 1971).

[18] *Dunn v. Tyler Ind. Sch. Dist.*, 327 F. Supp. 528 (E.D. Tex. 1971).

[19] *Moore v. Bd. of Educ. of Chidester Sch. Dist.*, 448 F.2d 709 (8th Cir. 1971); *Rauls and Hammond v. Baker Co. Bd. of Educ.*, _F.2d_ (5th Cir. 1971); *Smith v. Concordia Parish*, 445 F.2d 285 (5th Cir. 1971); *Cornist v. Richland Parish Sch. Bd.*, _F.2d_ (5th Cir. 1971).

[20] *Hobson v. Hansen*, 269 F. Supp. 401, 515-16 (D.D.C. 1967), aff'd sub nom. *Smuck v. Hobson*, 408 F.2d 175 (D.C. Cir. 1969).

[21] *Bradley v. Sch. Bd. of Richmond*, _F. Supp._ (E.D. Va. Jan. 5, 1972), 40 U.S.L.W. 2446 (Jan. 18, 1972). See also *Lee v. Macon Co. Bd. of Educ.*, 448 F.2d 746 (5th Cir. 1971), where the court refused to allow a city to secede from a county and operate an independent school system where secession would adversely effect desegregation of the county school system. But see, *Boyd v. Pointe Coupee Parish Sch. Bd.*, 332 F. Supp. 994 (E.D. La. 1971), where the court refused to grant further relief after 1800 white students enrolled in private schools to avoid integration. The court deemed the resulting all-black schools "de facto segregated," stating, "This is simply an inevitable result of forced integration of schools." 332 F. Supp. at 995.

The Supreme Court has granted writs of certiorari to review two Fourth Circuit cases in which approval was given for the creation of new school districts for cities that were previously included in large county school districts. *U.S. v. Scotland Neck City Bd. of Educ.*, 442 F.2d 584 (4th Cir. 1971), cert. grt. 92 S.Ct. 47 (1971); *Wright v. Council of City of Emporia*, 442 F.2d 570 (4th Cir. 1971), cert. grt. 92 S.Ct. 56 (1971).

[22] In the last few years, orders have been entered in Los Angeles, *Crawford v. Bd. of Educ.*, Civ. No. 822854 (Sup. Ct.L.A. City, Feb. 11, 1970); Pasadena, *Spangler v. Pasadena Bd. of Educ.*, 311 F. Supp. 501 (C.D. Cal. 1970); San Francisco, *Johnson v. San Francisco Unified School Dist.*, _F. Supp._ (N.D. Cal. 1971); Oxnard, Cal., *Soria v. Oxnard Sch. Dist. Bd. of Trustees*, 328 F. Supp. 155 (C.D. Cal. 1971); Las Vegas, *Kelly v. Brown*, Civ. No. LV-1146 (D.Nev. Dec. 2, 1970); Pontiac, Mich., *Davis v. School Dist.*, 309 F. Supp. 734 (E.D. Mich. 1970), aff'd, 443 F.2d 573 (6th Cir. 1971), cert. den., 92 S. Ct. 233 (1971); Detroit, *Bradley v. Milliken*, _F. Supp._ (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct. 12, 1971); South Holland, Ill., *U.S. v. School Dist. 151*, 404 F.2d 125 (7th Cir. 1968), modified 435 F.2d 1147 (7th Cir. 1970), cert. den., 402 U.S. 943 (1971).

[23] Note the Court's statement in *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 13 (1971), that "absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis."

[24] More than 50 amendments are under consideration, but one which has received substantial support in the House (H.J. Res. 620) provides: "Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school." This measure, if adopted, would not merely eliminate busing for integration, but would void *Brown v. Board of Education*, except perhaps as to desegregation resulting from freedom of choice plans.

In the Senate, S.J. Res. 165, that would have a similar effect provides, that: "Section 1. The assignment or transportation of children to a region beyond that covered by the neighborhood school, unless such assign-

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ment or transportation is voluntary, is expressly prohibited."

[25] J. Franklin, *From Slavery to Freedom*, pp. 330-32 (Vintage ed. 1969); K. Stampp, *The Era of Reconstruction: 1865-1877*, pp. 186-215 (Vintage ed. 1967).

[26] Reports indicate that black students in some predominately black schools, perhaps reflecting the racial hostility they see around them, have beaten and harassed white children assigned to "their" schools.

[27] The U.S. Senate Select Committee on Equal Educational Opportunity has found that disadvantaged children, without regard to race, tend to perform better in schools with a majority of advantaged children. But in achievement test terms, black students in Berkeley, while improving, are still at an educational level five years behind their advantaged white classmates at the eighth-grade level.

[28] Even committed school integrationist Dr. Kenneth B. Clark has expressed support for emergency programs of compensatory education intended to benefit children in predominately black schools. Clark, *Alternative Public School Systems*, 38 Harv. Educ. Rev. 100, 105 (1968).

[29] R. Niebuhr, *Moral Man and Immoral Society*, pp. 252-53 (1932).

[30] B. Washington, *Up From Slavery*, pp. 218-25 (1901).

[31] L. Bennett, *Before the Mayflower*, pp. 227-29 (1966).

[32] *Id.* Washington's policies were vigorously challenged by other black spokesmen of the day. See H. Aptheker, *A Documentary History of the Negro People in the United States*, pp. 876-86 (1968). Of course the classic statement is "Of Mr. Booker T. Washington and others," in W. DuBois, *The Souls of Black Folk*, p. 42 (Premier ed. 1961). The ideological conflict between Washington and DuBois is reviewed in A. Meier, *Negro Thought in America 1880-1915* (1963).

[33] *Newsweek*, Mar. 13, 1972, p. 21.

[34] 79 Stat. 27-35, as amended, 20 U.S.C. §§236-44 (1965). Title I is the largest compensatory education plan ever attempted.

[35] "Title I of ESEA — Is it Helping Poor Children?", a study prepared by civil rights groups, was reported in the *New York Times*, Nov. 9, 1969, p. 1, col. 1.

[36] See 1969 Civil Rights Comm'n. Report, p. 32.

[37] Cohen, *Policies for the Public Schools: Compensation and Integration*, 38 Harv. Educ. Rev. 114 (1968). Sen. Walter Mondale, Chairman of the Select Committee on Equal Educational Opportunity, said recently, "With few exceptions, an annual Federal investment of $1.5 billion in compensatory education has little perceptible impact on mounting educational disadvantages." *New York Times*, Feb. 27, 1972, p. E 13, col. 8.

[38] See Sizer and Whitten, "A Proposal for a Poor Children's Bill of Rights," Psychology Today, Aug. 1968, p. 59; Sizer, "The Case for a Free Market," Saturday Review, Jan. 11, 1969, p. 34.

For a thorough discussion of the legal, political, and educational issues, see, Areen, *Education Vouchers*, 6 Harv. Civ. Rights-Civ. Lib. L. Rev. 466 (1971). Serious constitutional questions are posed in King, *Rebuilding the 'Fallen House' — State Tuition Grants for Elementary and Secondary Education*, 84 Harv. L. Rev. 1057 (1971).

[39] See Coons, Clune, & Sugarman, *Educational Opportunity: A Workable Constitutional Test for State Financial Structures*, 57 Cal. L. Rev. 305 (1969).

[40] *McInnis v. Shapiro*, 293 F.Supp. 327 (N.D. Ill. 1968), aff'd mem. sub. nom. *McInnis v. Ogilvie*, 394 U.S. 322 (1969).

[41] *Serrano v. Priest*, 5 Cal. 3d 583, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971); *Van Dusartz v. Hatfield*, No. 3-71 Civ. 243 (D. Minn. Oct. 12, 1971); *Rodriguez v. San Antonio Ind. Sch. Dist.*, No. 68-175-5A (W.D. Tex. Dec. 23, 1971).

Similar suits are pending in perhaps 20 other states. See Note, *The Evolution of Equal Protection — Education, Municipal Services and Wealth*, 7 Harv. Civ. Rights-Civ. Liv. L. Rev. 103, 200-13 (1972).

[42] For what has become the classic exposition of the community control philosophy, see Hamilton, *Race and Education: A Search for Legitimacy*, 38 Harv. Educ. Rev. 669 (1968). The issues are thoroughly reviewed in A. Altschuler, *Community Control* (1970). See also *Community Control of Schools* (H. Levin ed. 1970); L. Fein, *The Ecology of the Public Schools* (1971).

[44] See, e.g., Fantini, *Participation, Decentralization, Community Control, and Quality Education*, 71 The Teachers College Record 93 (Colum. Univ. 1969); Myers, "Schools: Morgan's Tentative Revolution," City Bi-Monthly Rev. of Urban America, Nov-Dec. 1968, p. 6.

[45] *Confrontation at Ocean Hill-Brownsville* (M. Berube, M. Gittell, eds. 1968); D. Rogers, *100 Livingston Street* (1969).

[46] Community Control is constitutionally permissible. Kirp, *Community Control, Public Policy, and the Limits of the Law*, 68 Mich. L. Rev. 1355 (1970), but note the unreceptive opinion in *Oliver v. Donovan*, 283 F. Supp. 958 (E.D.N.Y. 1968).

[47] G. Dennison, *Lives of Children* (1969); J. Kozol, *Free Schools* (1972).

[48] While the *Newsweek* poll, footnote 3, asserts that ". . . nearly half the blacks interviewed opposed busing," their reasons go to the unfair burden placed on black children in many busing plans, and what some interpret as the subtle implications in all school integration plans that blacks cannot learn unless in the presence of whites. This latter concern is reflected in a controversial antibusing resolution passed at the recent black political convention held in Gary, Ind. *Boston Globe*, Mar. 13, 1972, p. 2, col. 3.

[49] Glazer, "Is Busing Necessary?" Commentary (Mar. 1972) p. 39.

[50] Some courts have required the establishment of bi-racial committees, but all too frequently this leads to the appointment of blacks who, once exposed to the school board's "problems" are coopted and join with the white members in opposing further legal action that may be needed to insure compliance with the plan.

[51] Petroni, "Teen-age Interracial Dating," Trans-Action, Sept. 1971, p. 54.

[52] R. Coles, *Children of Crisis* (1964).

[53] R. Ellison, *Invisible Man* (1947).

[54] Excerpts from speech of Theodore Lester, board member, Florence County School District No. 1 School Board, *Your Schools*, Newsletter of the South Carolina Community Relations Program, American Friends Service Comm., 401 Columbia Bldg., Columbia, S.C. 29201.

Metropolitan-Wide Desegregation

by William L. Taylor

Early this year federal district Judge Robert R. Merhige ordered the merger of Richmond, Virginia's predominantly black school district with two predominantly white suburban county districts.[1] Several months earlier, federal Judge Stephen Roth in Detroit ordered Michigan officials to submit a desegregation plan for the Detroit metropolitan area.[2] If the Richmond and Detroit decisions are upheld, they will have a broad impact on metropolitan areas throughout the nation.

For one thing, they provide a school integration remedy in places where it was previously thought to be a rapidly diminishing possibility. Black students now constitute a majority of the school enrollment of many cities, particularly large ones, and their numbers are growing rapidly. Black enrollment in Richmond, for example, is now about 65 percent and Detroit's is more than 60 percent.[3] Substantial school integration can be accomplished in many places only if the area encompassed by a court-ordered desegregation plan is larger than the city itself. In short, *Brown v. Board of Education* could become an anachronism unless its principles are interpreted broadly enough to encompass metropolitan relief. Because thirty-seven percent of the black population lives in the country's twenty-five largest cities (where racial concentrations tend to be highest), school integration, without metropolitan relief, can become a reality only in the smaller cities and rural areas which are rapidly losing population.

Legal Justification

The Richmond and Detroit decisions also have wide implications because they rest upon legal principles and factual findings which make them applicable throughout the country. The circumstances and principles, best articulated in the Richmond case, may be summarized as follows:

(1) *Public education is the responsibility of state government, which must make it available to all on equal terms.* This constitutional principle, articulated most clearly in *Brown*,[4] is also at the heart of the recent challenges to school financing systems based on the local property tax.[5] In Richmond, Judge Merhige found that general supervision over public schools was vested in the State Board of Education, which prescribed standards for certifying teachers, set quality standards for school divisions, set school construction standards, and approved local construction programs. In Detroit, Judge Roth found that the Michigan Board of Education had similar responsibilities, as do the state boards of education in all states.

(2) *Political subdivisions, including school districts, are creations of the state and will be altered when necessary to meet the overriding demands of the Constitution.* This principle, declared as early as *Hunter v. City of Pittsburgh*,[6] has had its major contemporaneous application in the reapportionment cases.[7] It has also been applied to school districts in situations where courts found that the districts were segregated as a matter of law.[8] In Richmond, the court said, ". . . if political boundaries amount to insuperable obstacles to desegregation because of structural reasons, such obstacles are self imposed. Political subdivision lines are creations of the state itself, after all."

(3) *De jure school segregation is established by demonstrating that school assignment policies are based upon segregated housing policies.* This was the question the Supreme Court left unresolved in the *Swann* case.[9] Judge Merhige's resolution of the issue was crystal clear:

> School authorities may not constitutionally arrange an attendance zone system which serves only to reproduce in school facilities the prevalent pattern of housing segregation, be it publicly or privately enforced. To do so is only to endorse with official approval the product of private racism.

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In this ruling, the court was following the recent line of decisions in northern school desegregation cases involving Pontiac, Michigan and Pasadena, California,[10] as well as a Fourth Circuit holding affecting the Norfolk schools.[11] A corollary principle is that the appropriate test of the constitutionality of school officials' actions is their operative effect, rather than whether they were the product of invidious intention or racial hostility. Constitutional violations may be established by the "knowing pursuit of policies which cannot but produce racial separation,"[12] and legality will be gauged by the "natural, probable, and forseeable effect" of the action.[13]

In both Richmond and Detroit, these holdings were supported by massive evidence of officially sanctioned housing segregation. This included the policies of the Federal Housing Administration (FHA) during the 1930's and 1940's, which called for the maintenance of racially and economically homogeneous neighborhoods and schools protected from "adverse influences" by "proper zoning regulations and deed restrictions." The persistent effect of these policies can be gauged by continuing segregation in FHA-assisted sale and rental housing. Other important factors include court enforcement of racially restrictive covenants (before *Shelley v. Kraemer*), the location of public housing only in predominantly-black sections of the inner city, the refusal of suburban jurisdictions to permit the construction of federally subsidized housing for low and moderate income families (and the predominantly white occupancy of these units where permitted), and continuing discriminatory practices of realtors and developers unrestrained by effective governmental action. Additional evidence tied these housing segregation practices directly to segregated schools. In Richmond, for example, it was established that when new suburban subdivisions were built, new schools were frequently constructed to serve only the all-white populace of the subdivision.

In short, the core of the Richmond and Detroit decisions was heavy government involvement in housing discrimination which contained blacks within the central cities. This demonstrated that black attendance at geographically-zoned segregated schools was hardly accidental or fortuitous. Metropolitan-wide efforts to integrate schools are well within *Brown*'s mandate to end governmentally-imposed segregation, and can not fairly be described as imposing "artificial racial balance."

(4) *The State has no compelling interest in maintaining racially separate school systems within a single bi-racial metropolitan community*. While the Richmond and Detroit defendants repeatedly argued the sanctity of school district lines, they were unable to establish how these boundaries had any paramount significance in what were in practice single metropolitan communities. The evidence of "community of interest" was substantial. In Richmond, the city and the two suburban jurisdictions formed the great bulk of what is defined by the Census Bureau as a single interdependent metropolitan community. A substantial proportion of suburban residents works in the city; suburban people make many of their purchases in Richmond city stores; a large volume of traffic flows back and forth daily across jurisdictional lines; almost everyone in the metropolitan area is born or dies in a Richmond city hospital; many of the recreational and cultural facilities located in one jurisdiction serve people in the entire metropolitan area. In addition, the three governmental entities have contractual arrangements for the use of water and utilities, and are working toward other joint approaches to solve problems that are widely regarded as regional in nature.[14]

In Detroit, even less educational interest justifies existing boundaries. Eighty-five separate school districts exist within the metropolitan area. Unlike Richmond, they vary in their school enrollments and overlap other kinds of political subdivisions.

The justification for existing school boundaries has arisen in another form in Indianapolis where the court, in a school desegregation suit directed initially at the city school board, has asked how the maintenance of separate school districts can be justified in a metropolitan area which has consolidated almost all other functions.[15]

Establishing a "community of interest" is important because it undermines the sanctity of existing district lines, and because it gives content to what otherwise might be viewed as an amorphous state responsibility. The existence of a metropolitan community makes single-race schools racially identifiable and takes the argument out of the realm of whether "racial balance" is what is being sought.[16] Other educational considerations may play a part in determining whether an entire

metropolitan area should be covered by one integration plan, but the existence of a single community establishes the framework for a desegregation plan to remedy past discrimination.

In Richmond much more proof existed than has been summarized here. The case had dragged through the courts for ten years while the city schools were becoming predominantly black, so that metropolitan relief could be viewed simply as an effective remedy under *Brown* and *Green v. School Board of New Kent County*.[17] The state of Virginia had intervened massively to preserve segregation, freely transferring children across district lines and busing them long distances. Yet Judge Merhige apparently did not regard these factors as essential to his decision:

> When a school board . . . operating in any area where segregated housing patterns prevail and are continuing, builds its facilities and arranges its zones so that school attendance is governed by housing segregation, it is operating in violation of the constitution . . . These conclusions apply in a case where no history of past intentional segregation was relied on in order to establish an affirmative duty to desegregate. In a situation such as the instant one, when officially mandated segregation was enforced by numerous other means, the legal principles are all the more demanding.

In sum, the crucial elements of the Richmond and Detroit decisions were state responsibility for public education, the containment of black people in the central city by housing discrimination policies, and the lack of justification for maintaining separate districts in a single metropolitan community where they resulted in segregated schools. If the decisions are sustained on these grounds, they will have obvious applicability throughout the country.

Remedy

The Richmond court has ordered into effect a city school board plan that will consolidate the three districts into one district of 104,000 students governed by a single school board and superintendent. While this ruling has refueled the furor over busing, several key aspects of the decision and of other allied cases are frequently overlooked:

Logistically, metropolitan plans may be less difficult to implement than desegregation plans for a single district. In Richmond, for example, the desegregation plan adopted by the court divides the metropolitan area into six subdistricts. The maximum time for any trip would be 45 minutes in five of the six subdistricts and one hour in the sixth (a rural area of Chesterfield County where long distance busing is already common). Very few children would actually travel the maximum time, times which are well within limits set by the Virginia State Department of Education twenty-five years ago. And the number of children to be transported would increase by no more than 10,000 (from 68,000 to 78,000).

In Hartford, where another metropolitan-wide case has survived a motion to dismiss and is awaiting trial,[18] the city's North End contains every school with a 90-100% minority group enrollment, and no predominantly white schools. Integrating North End minority students with South End whites would necessitate busing through Hartford's large commercial and industrial center. Logistically, it is simpler to integrate the North End with the adjacent suburban community, where schools are within walking distance for

Winter transportation at Kirksville, Missouri.

many students. In Hartford, therefore, pairing nearby schools is a feasible technique for metropolitan integration, while busing is the only feasible means of achieving intracity desegregation.

In larger cities, planning for metropolitan integration may be more complex, but logistics may be no more difficult. In Detroit, for example, preliminary state board planning suggests that substantial racial and economic integration can be accomplished without any increase in transportation costs or the number of children to be transported, if the integration plans encompass a group of adjacent suburbs.

Remedies can be made flexibly enough to achieve the desired educational result. Total consolidation is only one option. Others include partial merger, redistricting, or even the assignment of children across existing boundaries. The only prerequisite would be that the remedy accomplish integration.

Metropolitan plans offer the prospect of stable integration. In metropolitan Richmond, with a minority population proportionately as large as any area in the nation, enrollment in the consolidated school system would be 66 percent white and 34 percent black. Under the Richmond Board's plan every school would have an 18 to 40 percent black enrollment.

This arrangement should enhance stability. Whether "white flight" is based upon racism, or upon a judgment that schools consisting of a majority of advantaged children offer greater educational benefits, the dangers of rapid resegregation are decreased where the obligation to desegregate is systemwide and the racial and economic class composition of each school is defined within a range. Most families would have an incentive to remain living where they were to make integration work, instead of moving to more distant areas.

Metropolitan plans offer greater educational advantages than do simple integration plans. Expert witnesses in the Richmond and Detroit cases testified that metropolitan-wide desegregation will provide economies of scale in many places that will make possible new facilities and services that are too costly for smaller districts. These include special schools and programs to serve the gifted and handicapped, improved facilities for teacher training, and wider use of television and computers as instructional tools. (In some places, such as New York, the state provides incentives to suburban districts, but not to cities, to cooperate in providing services. It seems reprehensible, as well as unconstitutional, for states to hold out incentives for consolidation and cooperation only in a manner that entrenches racial separation.)

Metropolitan plans do not decrease, and may even enhance, school accountability and opportunities for community participation. Under the Richmond plan, the new consolidated district is to be divided into six subareas of about 18,000 students each. While the plan does not specifically apportion responsibility between the central authority and the subdivision, there is no reason why each subdivision cannot be delegated broad authority to determine the kind of educational program that best meets the needs of children in the area. This might include the hiring of faculty and administrative personnel, and decisions about curriculum and the allocation of budget. Thus, there is no basis for the suggestion that metropolitan school integration plans necessarily entail a loss of "local control."

Judge Merhige's order also seeks to protect blacks against various forms of discrimination that have often accompanied past desegregation. It contains detailed provisions prohibiting discrimination in the retention, reassignment and hiring of faculty or staff, and requires plans for "in-service training of staff, creation of biracial committees, employment of black counselors in all schools, and plans for biracial extracurricular activities."

None of this ignores the fact that black children, who will be a minority in each subdivision, frequently encounter difficult problems in desegregated schools. But the battle to win respect for one's heritage, and fair treatment from teachers, administrators, and fellow students is a new phase of the desegration struggle. Because it is difficult does not mean the effort should be abandoned. The struggle to win equal status in desegregated schools is an integral part of the effort to win equality in a biracial society. It is doubtful that students who are shielded from inter-racial contact in the name of avoiding mistreatment will be well prepared for the struggle for equal status they will face after school.

Nor does the evidence suggest that integrated or predominantly black school systems are more accountable or subject to black parents' influence. On the contrary, it is likely that participation of minority and low income parents in school affairs will increase under metropolitan

integration arrangements. Parents in Evanston, Rochester, and Boston whose children have moved from racially isolated to integrated schools have reported feelings of greater participation and influence in their children's education in the new situation than in the old.

The Politics of Metropolitanization

One concern about metropolitan school litigation is that it may encourage metropolitan government, which could dilute minority political power, particularly in areas where blacks constitute a voting majority in the central city and have elected (or are about to elect) their own candidates to municipal office.

But there is no necessary link between metropolitan school integration and metropolitan government. This is well illustrated in Richmond where another group of black plaintiffs sued during the school suit to de-annex a predominantly white portion of Chesterfield county that had been merged with the City of Richmond. They claimed that the annexation's purpose was to prevent blacks from becoming a voting majority in Richmond. Judge Merhige, the same judge who later ordered metropolitan school relief, ruled that the annexation was racially motivated and required some form of redress.[19] Equal educational opportunity in a metropolitan area is clearly a separate issue from political representation in the same area. Urging the former does not compel either a legal or a policy commitment to the latter.

Moves toward metropolitan school integration, however, may bring significant political realignments. The Richmond school board, long a defendant, was a principal moving party in the request for metropolitan relief. In Detroit, a group of white city residents initially raised the metropolitan issue. Whether these parties truly believe in school integration varies from situation to situation. But they do assert that whatever social burdens are inherent in school integration should be born equally by the generally more affluent citizens of suburbia and by the white and black working people of the cities.

There is merit to this view, and the fact that it is being asserted in the courts indicates that the potential support for metropolitan solutions is not limited to black people. It also suggests that despite the controversy the Richmond and Detroit decisions have aroused, a metropolitan approach may help to diffuse conflict between blacks and whites in the inner city.

It is far too early to predict the outcome of metropolitan school integration suits. Given the current hysteria over busing and the sparsity of courageous political leadership, the effort may be thwarted by Congressional action. The Senate has already passed legislation to stay the implementation of any inter-district integration order until all appeals have been exhausted. Any restraints placed upon busing as an integration tool would obviously frustrate metropolitan integration.

A Warning About Finance

A more sophisticated, but no less dangerous development would be for public officials to embrace school financing equalization *as an alternative* to integration. The *Serrano* decision has fostered a surge of litigation and legislation to apply its principle that school finances may not vary because of local districts' property wealth. While fiscal inequities must be remedied, there are limits to what reform can accomplish:

(1) Some states are discovering no correlation between district property wealth and the wealth of families who reside there. New York City is an example of a city with a rich tax base and many poor families.[20] There, poor and minority children would be hurt rather than helped by application of the *Serrano* principle of redistributing property wealth for school financing purposes.

(2) The *Serrano* decision points to an equalization of property tax revenues, rather than a financing system based on educational need (what poor children really require), or even equalized per pupil expenditures.

(3) There is little persuasive evidence that different expenditures produce significant educational differences (except on a major scale). It is problematical at best that increases in funding can by itself bring about the higher quality education that poor children so desperately need.

(4) While implementation of *Serrano*, because it would eliminate the cost of educating new students, strips away the affluent suburbs' traditional rationale for refusing to shelter poor and minority families, it hardly guarantees that suburban barriers to the poor and minorities will fall.

While fiscal reform is needed, it is no panacea for educational ills that are traceable in large part to discrimination and racial isolation.

Care must be taken that it does not become the modern equivalent of the "separate but equal" theory of *Plessy v. Ferguson*.[21]

If Congress should resolve to support court desegregation efforts, it could do much to assure the success of a metropolitan approach. Much current concern about integration arises from widespread dissatisfaction with the quality of public education. If people become convinced that integration is one part of a broader effort to improve public education for *all* children, some opposition to it would abate. New facilities, such as education parks located in areas accessible both to suburban and city residents, might temper the cross-busing controversy. Federal assistance to individualized instruction programs could help convince parents that their children's learning problems will not be neglected in an integrated system.

This view may be too hopeful at a time when public officials, including the President, are manipulating the integration issue for narrow political gain. But major progress in school integration has been achieved in the South even in the face of massive resistance. A new brand of leadership, best exemplified by Governor Askew of Florida, is emerging. It encourages people to face their problems and solve them rather than retreat to racism. It may be that Richard Nixon's *realpolitik* will prove to be more illusory in the long run than the dream of Martin Luther King.

FOOTNOTES

[1] *Bradley v. School Board of the City of Richmond*, C.A. No. 3353 (E.D. Va. Jan. 5, 1972), 40 U.S.L.W. 2446 (Jan. 18, 1972).

[2] *Bradley v. Milliken*, C.A. No. 35257 (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct. 12, 1971).

[3] In Wilmington, Delaware and Atlanta, where other cases are pending, black enrollments exceed 80% and 60% respectively. In Baltimore and St. Louis they are more than 60%, and in Chicago and Cleveland more than 50%.

[4] "Such an opportunity [the opportunity for an education] where the State has undertaken to provide it, is a right which must be made available to all on equal terms." 347 U.S. at 493.

[5] *Serrano v. Priest*, 5 Cal. 3d 584 (Cal. Sup. Ct. 1971); *Van Dusartz v. Hatfield*, No. 3-71 Civ. 243 (D. Minn. Oct. 12, 1971); *Rodriguez v. San Antonio Independent School District*, C.A. No. 68-175-SA (W.D. Tex. Dec. 23, 1971).

[6] 207 U.S. 161, 178 (1907).

[7] See, e.g. *Reynolds v. Sims*, 377 U.S. 533 (1964); *Wesberry v. Sanders*, 376 U.S. 1 (1964).

[8] See, e.g. *Haney v. County Board of Education of Sevier County*, 429 F.2d 364 (8th Cir. 1970); *U.S. v. Texas*, 321 F. Supp. 1043 (E.D. Tex. 1970), *aff'd*, 447 F.2d 441 (5th Cir. 1971).

[9] *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971).

[10] *Davis v. School District of City of Pontiac*, 443 F.2d 573 (6th Cir. 1971), *cert. den.*, 92 S.Ct. 233 (1971); *Spangler v. Pasadena City Board of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

[11] *Brewer v. School Board of City of Norfolk*, 397 F.2d 37 (4th Cir. 1968).

[12] *Johnson v. San Francisco Unified School District*, _F. Supp._ (N.D. Cal. April 28, 1971).

[13] *Bradley v. Milliken*, footnote 2, at 12, 23.

[14] The elements of establishing a community of interest were first established in *Jenkins v. Township of Morris School District*, C.A. No. A-117 (N.J. Sup. Ct. June 25, 1971), in which the Supreme Court of New Jersey held that the New Jersey Commissioner of Education was authorized to merge the school districts of a closely related town and suburban area. The community of interest argument is paradoxical in one sense. As suburbs break away from any dependence upon central cities, establishing their own employment opportunities, hospitals, cultural and recreational facilities, it will be increasingly more difficult to demonstrate the existence of a single metropolitan community. Yet racism is certainly an important element in this process of central city abandonment.

[15] *United States v. Board of School Commissioners of the City of Indianapolis*, 332 F. Supp. 655 (S.D. Ind. 1971).

[16] The failure to allege or prove housing discrimination which confines blacks to segregated schools and the lack of compelling justification for separate districts in a single metropolitan community led to the dismissal of an early case in this area. *Spencer v. Kugler*, 326 F. Supp. 1235 (D.N.J. 1971), *aff'd*, _U.S._ (Jan. 17, 1972). The complaint only alleged that public education was a state responsibility and that the schools were racially imbalanced.

[17] 391 U.S. 430 (1968).

[18] *Lumpkin v. Meskill*, C.A. No. 13,716 (D. Conn., filed Feb. 1970).

[19] *Holt v. City of Richmond*, C.A. No. 151 71 R (E.D. Va. Sept. 28, 1971).

[20] U.S. Senate, Select Committee on Equal Educational Opportunity, *Inequities in School Finance*, 92nd Cong. 2nd Sess. (Jan. 1972).

[21] Of course metropolitan integration itself may be a means of removing fiscal inequities. In Richmond, the new consolidated district presumably will have a single tax base and a uniform tax rate.

Pending Desegregation Cases

by Robert Pressman

Allegheny County, Pennsylvania: *Hoots v. Commonwealth of Pennsylvania*, C.A. No. 71-538 (W.D. Pa.).

This action challenges the manner in which school districts have been consolidated in one section of suburban Pittsburgh. Plaintiffs allege that District 16 (42 percent black) is racially identifiable compared with the newly created adjoining systems which are one percent, six percent and one percent black. Plaintiffs also allege that District 16 "does not have the economic capacity nor educational resources to provide an educational program commensurate to those of the adjoining school districts." The parties have recently submitted proposed stipulations pursuant to the court's request.

Plaintiffs' counsel: R. Stanton Wettick, Jr., Neighborhood Legal Services Association, Pittsburgh.

Benton Harbor, Michigan: *Berry v. School District of City of Benton Harbor*, Civ. No. 9 (W.D. Mich. Feb. 17, 1970).

The district court found discrimination in faculty assignment, school grouping practices, and in the quality of physical plants, and ordered remedial action. The court did not grant any relief on student assignment. Each side has appealed to the Sixth Circuit, plaintiffs challenging the failure to order student desegregation. Plaintiffs have received additional time to file their brief because of a delay in the preparation of the transcript.

Plaintiffs' counsel: Louis Lucas, Memphis, Tennessee; Stuart Dunnings, Jr., Lansing, Mich.

Boston, Massachusetts: *Morgan v. Hennigan*, C.A. No. 72-911-G (D. Mass. filed Mar. 15, 1972).

This action challenges the segregation of pupils and faculty, hiring and promotion of faculty and staff, resource allocation, and the content of the educational program. Plaintiffs seek implementation of a plan fully desegregating the system for the 1972-73 school year. Among other things, the complaint alleges that the system has transported students to schools in ways promoting racial segregation of students.

Plaintiffs' counsel: Thomas M. Simmons, S. Stephen Rosenfeld, John Leubsdorf, Roger Abrams, Boston.

Clark County, Nevada: *Kelly v. Guinn*, _F.2d_ (9th Cir. Feb. 22, 1972)..

The Ninth Circuit affirmed the district court's finding that officials had illegally segregated certain elementary schools. The appellate court also affirmed the district court's approval of a desegregation plan providing for clustering of schools, with associated grade reorganization and two-way busing. The school system has filed a petition for rehearing.

Plaintiffs' counsel: NAACP Legal Defense Fund, New York City, New York.

Denver, Colorado: *Keyes v. School District No. 1*, 303 F. Supp. 279 (D. Colo. 1969), 303 F. Supp. 289, 313 F. Supp. 61, 313 F. Supp. 90, reversed in part, 445 F.2d 990 (10th Cir. 1971), cert. granted, 92 S.Ct. 707.

The district court found that school officials had deliberately segregated certain schools, and ordered them desegregated pursuant to a plan adopted, but later rescinded by the school board. As to 17 additional schools with minority enrollments of at least 70 to 75 percent, the district court found insufficient proof of deliberate segregation, but ordered their desegregation based upon the finding that their students were denied "an equal educational opportunity." In reaching this conclusion, the court noted in the impacted schools lower test scores and higher dropout rates, less qualified teachers and, in general, a disparity in the age of school buildings and the size of school sites.

On appeal, the Tenth Circuit affirmed as to the finding of deliberate segregation, but reversed on the equal educational opportunity theory. On January 17, 1972, the Supreme Court agreed to review the case; however, the argument will be delayed until the October, 1972 Term. Petitioners raise the question of whether the lower courts erred in looking at the system in segments, rather

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than as a whole, in assessing system involvement in the creation of segregation. They also challenge the rejection of the equal educational opportunity contention in view of the appellate court's failure to reject any of the factual findings of the district court upon which it was based.

Plaintiffs' counsel: Craig Barnes, Gordon Greiner, Denver; NAACP Legal Defense Fund, New York City.

Detroit, Michigan: *Bradley v. Milliken*, C.A. No. 35257 (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct. 12, 1971).

In September 1971, the district court held that the segregation of pupils in the Detroit school system violated the Fourteenth Amendment. The court found, *inter alia*, that school transportation practices had promoted segregation. The district judge also found involvement by the state and its agencies in the maintenance of the pattern of student segregation. The court held that under the federal and state constitutions, "the responsibility for providing educational opportunity to all children on constitutional terms [was] ultimately that of the state."

Thereafter, the court ordered local and state defendants to prepare and file intra-city and metropolitan desegregation plans. Hearings on the plans were held during March, 1972.

Plaintiffs' counsel: Louis Lucas, William Caldwell, Memphis, Tennessee; Nathanial Jones, NAACP, New York City; Paul R. Dimond, J. Harold Flannery, Center for Law and Education, Cambridge, Mass.; NAACP Legal Defense Fund, New York City.

Grand Rapids, Michigan: *Higgins v. Board of Education of Grand Rapids*, C.A. No. 6386 (W.D. Mich. filed 1971).

Plaintiffs' complaint challenged student and faculty segregation in Grand Rapids. The Grand Rapids system moved to join officials of a number of suburban systems as defendants. Plaintiffs filed an amended complaint including state officials and representatives of suburban systems as defendants. The court denied the state defendants' motion to dismiss.

Plaintiffs' counsel: Stuart Dunnings, Jr., Lansing, Michigan; Louis Lucas, Memphis.

Hartford, Connecticut: *Lumpkin v. Meskill*, C.A. No. 13, 716 (D. Conn. filed Feb. 1970).

This action seeks metropolitan school desegregation in the Hartford area. The three-judge court denied the motion to dismiss in January 1971. Plaintiffs have been conducting discovery.

Plaintiffs' counsel: Douglas M. Crockett, Raymond Marcin, Tolland-Windham Legal Assistance, Willimantic; Paul R. Dimond, Harvard Center for Law and Education, Cambridge, Massachusetts.

Indianapolis, Indiana: *United States (And Buckley) v. Board of School Commissioners of the City of Indianapolis*, 332 F. Supp. 655 (S.D. Ind. 1971).

This suit was filed as a conventional student and faculty desegregation case by the Department of Justice in 1968. In August 1971 the district court ruled that the system had never adequately disestablished the dual system operated pursuant to an Indiana statute repealed in 1949. The court ordered limited in-city relief. In addition, the court discussed the passage of state laws concerning the expansion of the city school system, and creating "Uni-Gov," a metropolitan government for municipal services other than schools. Expressing the view that the effect of these measures "may well have been to retard desegregation and to promote segregation" in the Indianapolis system, the court ordered the United States to file pleadings joining as parties municipal and school officials in the metropolitan area. The court also referred to the stability of the city system (37.4 percent black) compared with adjoining systems (2.6 percent black).

In the fall of 1971, private plaintiffs intervened, joining as defendants almost all school officials in the SMSA. The court has denied motions to dismiss and has under advisement the question of convening a three-judge court.

Plaintiffs' counsel: U.S. Dept. of Justice Civil Rights Division; Nathaniel Jones, NAACP, New York City; J. Harold Flannery, Eric E. Van Loon, Harvard Center for Law and Education, Cambridge, Mass.

Kalamazoo, Michigan: *Oliver v. School District of the City of Kalamazoo*, C.A. No. K88-71 (W.D. Mich. 1971), aff'd, 448 F.2d 635 (6th Cir. 1971).

The system's school board adopted a plan of complete student desegregation. After an election, the new board rescinded the plan. Plaintiffs filed suit challenging the rescission. The district court held the rescission violative of the Fourteenth

Amendment and entered a preliminary injunction requiring the system to implement its plan for the 1971-72 school year. On appeal, the court of appeals affirmed, finding no abuse of discretion in the granting of the preliminary injunction, and noting that the school board would have an opportunity to press its contentions in the hearing on the merits.

Plaintiffs' counsel: Nathaniel Jones, NAACP, New York City; Stuart Dunnings, Jr., Lansing, Mich.

Los Angeles, California: *Crawford v. Board of Education*, Civil No. 822854 (Sup. Ct. L.A. Cty.).

On February 11, 1970, the court held that students in the district were illegally segregated, and directed school officials to prepare a plan under which each school in the system would have between a 10 and 50 percent minority student enrollment. The court also found discrimination against minority students with respect to per-pupil expenditures, the quality of facilities, and the qualifications of teachers assigned to schools with concentrations of minority students.

The school system appealed to the California Court of Appeals; implementation of the affirmative aspects of the trial court's decision was stayed. Opening briefs have been filed. The case will be argued after the system files its reply brief.

Plaintiffs' counsel: William Rintala, Bayard Berman, Los Angeles.

Minneapolis, Minnesota: *Booker v. Special School District No. 1*, C.A. No. 4-71 Civ. 382 (D. Minn.).

This action challenges the segregation of students against minorities in hiring for faculty and staff positions and in promoting persons to supervisory positions. The trial is scheduled for April, 1972.

Plaintiffs' counsel: Charles Quaintance, Jr., Minneapolis.

Oxnard, California: *Soria v. Oxnard School District Board of Trustees*, 328 F. Supp. 155 (C.D. Cal. 1971).

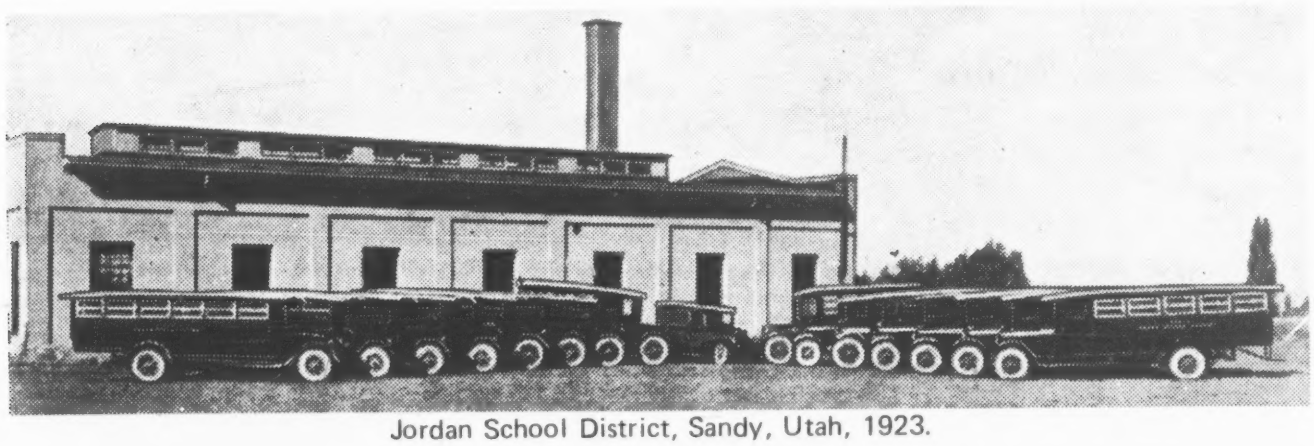
Plaintiffs' motion for a summary judgment was granted May 12, 1971, the court finding "sufficient 'de jure overtones'" in school practices to warrant a holding that the segregation of the elementary schools violated the Fourteenth Amendment. Thereafter, a pairing plan was adopted, affecting six schools and increasing the number of students transported. The system appealed. The District Court and Ninth Circuit declined to stay implementation. Filing of briefs awaits preparation of a transcript. The school district is expected to argue on appeal that summary judgment was erroneous because there were genuine issues of material fact on the question of the school officials' intent.

Plaintiffs' counsel: Peter Roos, Western Center on Law and Poverty, Los Angeles; John A. Childers, Legal Service Center of Ventura County, Oxnard, California.

Pasadena, California: *Spangler (and United States) v. Pasadena City Board of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

The district court held that officials had illegally segregated the system, and ordered the implementation of a plan in September 1970 under which there would "be no school . . . with a majority of any minority students." Minority students constituted 41.7 percent of the enrollment as of the court's order. The plan utilized pairing of schools and transportation. The discriminatory practices identified by the court included busing white students to promote segregation.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil



Jordan School District, Sandy, Utah, 1923.

Rights Division; Edgar Boyko and Michael Roberts, Los Angeles.

Pontiac, Michigan: *Davis v. School District of City of Pontiac*, 309 F. Supp. 734 (E.D. Mich. 1970), aff'd, 443 F.2d 573 (6th Cir. 1971), cert. denied, 92 S.Ct. 233 (1971).

May 28, 1971, the Sixth Circuit upheld the district court's finding that school officials had illegally segregated students and faculty. The appellate court also affirmed the lower court's approval of a desegregation plan (submitted by the system, but contested on appeal) utilizing pairing and transportation of students. Two issues are pending. The court of appeals stayed the district court's order that a black assistant superintendent be appointed. The district court is considering the question of counsel fees for plaintiffs' attorneys.

Plaintiffs' counsel: William Waterman, Elbert Hatchett, Pontiac.

Rochester, New York: *Colquhoun v. Board of Education, Rochester City School District*, C.A. No. CIV-1970-97 (W.D.N.Y. filed 1970).

This action challenging student and faculty segregation was initiated in the spring of 1970. After the filing, the school system adopted a plan for complete desegregation in steps beginning in 1970 and ending in 1974, and moved for summary judgment. Plaintiffs filed a cross motion. Following an election, the new school board rescinded a portion of the plan, and plaintiffs filed a motion for a preliminary injunction challenging the rescission as an independent Fourteenth Amendment violation. On March 16, 1972, the board rescinded the remainder of the plan. All motions are under submission.

Plaintiffs' counsel: William A. Shapiro, Monroe County Bar Legal Association Corp., Rochester.

San Francisco, California: *Johnson v. San Francisco Unified School District*, C.A. No. C-70 1331 SAW (N.D. Cal. Ap. 28, 1971).

In April and June 1971, the district court ruled that San Francisco elementary schools were illegally segregated under federal and state law, and that the system had discriminated in the hiring and assignment of black teachers. The court ordered the system to integrate "all public elementary schools so that the ratio of black children to white children will be and thereafter continue to be substantially the same in each school." The system implemented a plan based upon clustering and increased transportation for the 1971-72 school year.

The school system appealed. After the argument in the Ninth Circuit, one of the judges on the panel died. The Ninth Circuit has indicated that a new argument will be held after the Supreme Court decides the *Keyes* (Denver) case.

San Jose, California: *Dias v. San Jose Unified School District*, C.A. No. C-71 2130 RFP (N.D. Cal. filed 1971).

This is an action challenging discrimination against Mexican-Americans in pupil assignment, faculty hiring and assignment, resource allocation, and selection for advanced classes. January 11, 1972, the district judge denied plaintiffs' motion for a preliminary injunction against the construction of thirteen schools, finding insufficient evidence that defendants had "acted to create ethnic imbalance . . . ." Plaintiffs have prepared interrogatories. They may, depending upon the decision on appeal in San Francisco, move for summary judgment.

Plaintiffs' counsel: Stephen Manley, Community Legal Services, San Jose.

Seattle, Washington: *Citizens Against Mandatory Busing v. Palmason*, C.A. No. 731-666 (Superior Ct., King Cty. filed 1971).

In January 1971 the Seattle school board adopted a plan to convert to a system of racially desegregated middle schools at the start of the next school year. The plan required cross busing of some white and some non-white students. CAMB filed suit alleging that this violated a state constitutional provision forbidding racial discrimination.

In August 1971, the trial court held the adoption of the middle school plan to be arbitrary and capricious, and enjoined the board from engaging in mandatory busing. Thereafter the court allowed the system to adopt a middle school program incorporating a desegregation program based upon voluntary busing. The system appealed to the State Supreme Court contesting the ban on mandatory busing and the lower court's conclusion that the case involved no federal issue. The case was argued January 12, 1972.

School board's counsel: Camden Hall, Seattle.

South Holland-Phoenix, Illinois: *United States v. School District 151*, 286 F. Supp. 786 (N.D. Ill.

1968), aff'd 404 F.2d 1125 (7th Cir. 1968), 301 F. Supp. 201 (1969), aff'd as modified, 432 F.2d 1147 (1970), cert. denied, 402 U.S. 943 (1971).

Both students and faculty in this K-8 school system were fully desegregated for the 1969-70 school year. The student assignment plan utilized grade reorganization and substantially increased the transportation of white and black students, although distances were small (the total area of the system is 4.5 square miles). Since desegregation began, enrollment has decreased substantially. The district has asked the Department of Justice for permission to close one of the two formerly black schools. This request is under consideration. The discriminatory practices identified by the district court included the busing of white students in a manner promoting segregation.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil Rights Division.

Springfield, Massachusetts: *Maness v. School Committee of the City of Springfield*, C.A. No. 71-143-M (D. Mass. filed Jan. 19, 1971).

This action challenges the school system's proposed desegregation plan for disproportionately burdening black students by one-way busing and eliminating schools in black residential areas. January 20, 1971 the district court denied a TRO, in part, because state officials had questioned the plan on similar grounds. Further action awaits completion of the state court proceeding, where counsel in *Maness* has filed an *amicus* brief.

Plaintiffs' counsel: William Malloy, Neighborhood Legal Services, Inc., Springfield.

Waterbury, Connecticut: *United States v. Board of Education of Waterbury*, C.A. No. 13465 (D. Conn. filed 1968).

This action challenging alleged student and faculty segregation was filed in 1968. There has been no hearing on the merits to date.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil Rights Division.

Publications from the Center for Law and Education

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